

Fact Sheet for the Sand and Gravel General Permit

National Pollutant Discharge Elimination System and
State Waste Discharge General Permit

For discharges from
For Process Water, Stormwater, and Mine Dewatering Water Discharges
Associated with Sand and Gravel Operations, Rock Quarries, and Similar Mining
Facilities, Including Stockpiles of Mined Materials, Concrete Batch Operations and
Hot Mix Asphalt Operations

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State of Washington
Department of Ecology
Olympia, Washington 98504-7600

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1.0 Introduction

This Fact Sheet accompanies the formal draft *Sand and Gravel General Permit – A National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge Permit*. The Fact Sheet serves as the documentation of the legal, technical, and administrative decisions Ecology has made in the process of reissuing the permit.

The Washington Department of Ecology (Ecology) issued the Sand and Gravel General Permit on February 17, 2016, and modified it on January 19, 2018 (referred to in this fact sheet as the 2018 permit). The Sand and Gravel General Permit authorizes the discharge of process water, stormwater, and mine dewatering water to waters of the State of Washington from sand and gravel operations, rock quarries, and similar mining facilities, including concrete batch operations and hot mix asphalt operations.

This proposed general permit limits the discharge of pollutants to surface waters under the authority of the Federal Water Pollution Control Act (U.S.C.S. 1251) and limits the discharge of pollutants to surface and ground water under the authority of Chapter 90.48 RCW.

You may download copies of the draft permit documents at:

<http://www.ecy.wa.gov/programs/wq/sand/index.html>.

2.0 Public Involvement Opportunities

2.1 Public Comment Period

Ecology invites public comment on the proposed draft permit and fact sheet until **11:59 p.m. on Friday, December 11, 2020**. Ecology welcomes all comments that address the permit requirements in the formal draft Sand and Gravel General Permit.

In order for Ecology to adequately address comments, please include the following information with each comment:

- The specific permit language used in the requirement subject to your comment. Include the page number(s) and, where indicated, section reference (i.e., S8.E.7.a).
- A brief, concise comment including the basis for the comment, and in particular the administrative, legal, technical, or other basis for the concern.
- Suggested permit language or a conceptual alternative to address your concern.

Submit oral comments by attending and testifying at the public hearings. Send written comments to Ecology by one of the methods below:

- Ecology prefers comments be submitted by the eComment form located at: <http://wq.ecology.commentinput.com/?id=hW4pQ>

- Send permit comments in hard copy by mail to:

Adrien Carroll-Perkins
Washington State Department of Ecology
PO Box 47696
Olympia, WA 98504-7696

2.2 Public Workshop and Hearings Schedule

Ecology will host public workshops and hearings on the proposed changes in the draft. The workshops provide Ecology an opportunity to explain the proposed changes to the permit and to answer questions. Each workshop will be immediately followed by a public hearing. The public hearings will provide an opportunity for the public to give formal comments on the draft permit or fact sheet.

December 2, 2020 Via Webinar
5:30 pm

December 4, 2020 Via Webinar
10:00am

Visit <https://ecology.wa.gov/sandandgravel> to sign-up.

Please direct questions about the workshops, hearings, draft permit, or fact sheet to Adrien Carroll-Perkins, adrien.carroll-perkins@ecy.wa.gov or 360-407-7386.

2.3 Issuance of the Final Permit

Ecology has tentatively determined to reissue the Sand and Gravel General Permit. Ecology expects to make a final permit issuance decision in February 2021 after reviewing and considering all public comments. Ecology will send a copy of the Notice of Issuance to all persons who submitted written comment or gave public testimony at the public hearings.

During the public comment period, Ecology typically receives public comments on the proposed permit and fact sheet. Ecology will append the final fact sheet for the permit with a summary of a response to comments (*Appendix A – Response to Comments*). Parties submitting comments will receive a notice on how to obtain copies of the final permit and Ecology’s response to comments. Ecology will only revise this fact sheet for factual errors.

2.4 Public Involvement Opportunities Prior to October 2020

In April 2020 Ecology held and participated in several discussions with stakeholders and held two public listening sessions via webinars to discuss permit issues and concerns in preparation for reissuance of the Sand and Gravel General Permit.

3.0 Background

A general permit is designed to provide coverage for a group of related facilities or operations of a specific industry type or group of industries. Ecology issues general permits when the discharge characteristics are similar and a standard set of permit requirements can effectively provide environmental protection and comply with water quality standards for discharges to surface water or ground water. The sand and gravel general permit provides coverage for discharges of process water, mine dewatering water, and stormwater associated with certain types of mining operations, concrete production, and asphalt production.

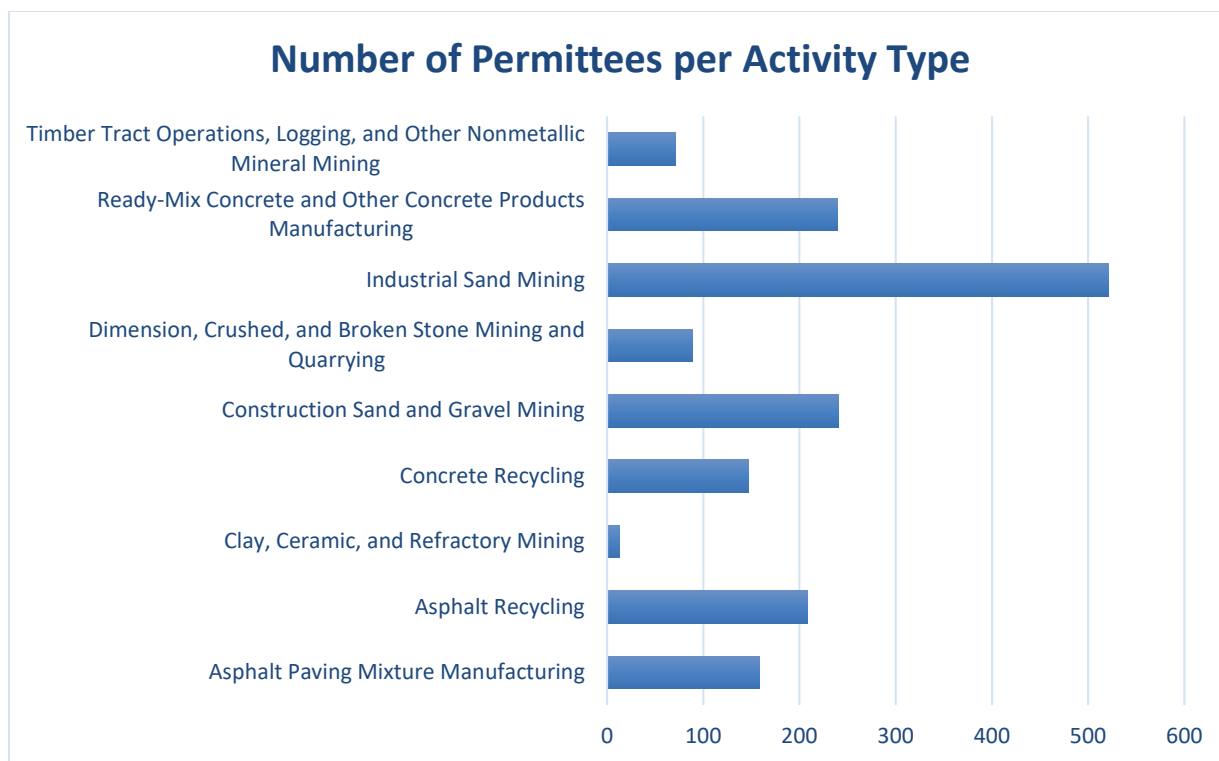
3.1 Description of the Sand and Gravel Industry

There are approximately 889 facilities covered under this general permit; 559 of these have active site status and 97 of them are portable.¹

The Sand and Gravel General Permit uses the North American Industrial Classification System (NAICS) Codes to designate which types of typical activities may receive permit coverage. Multiple NAICS codes may apply to one permitted site. Figure 1 shows the number of permittees engaged in the different activity types covered under the Sand and Gravel General Permit. The activity with the most permittees is Industrial Sand Mining (NAICS 212322), followed by Construction Sand and Gravel Mining (NAICS 212321) and then Ready-Mix Concrete Manufacturing (NAICS 327320) and Asphalt Recycling (Ecology Code ECY001).

Figure 1: Number of Permittees per Activity Types

¹ PARIS Database Query 8/31/20



The Sand and Gravel General Permit provides coverage for discharges of wastewater (including stormwater, process water, and mine dewatering water) to surface water and groundwater. Approximately 72% of permittees discharge to ground only and 28% discharge to surface water. Permittees on the west side of the Cascade Mountains are much more likely to have a surface water discharge than those on the east side.

3.2 Wastewater Characterization

Wastewater is a general term which includes contaminated stormwater, process water, and mine dewatering water.

3.2.1 Stormwater

Mining activities typically begin by removal of the overburden to expose the desired material. Removing topsoil and disturbing the land surface increases the potential for adverse consequences to surface and ground water quality. Removing the vegetative cover and disturbing the soil makes the area more susceptible to erosion. Stormwater readily suspends the exposed soil and carries it to nearby surface water. Sediment can harm the health of aquatic life in surface water bodies.

Vegetation and soil also serve to protect groundwater from pollutants. They provide filtration, chemical and physical reactions, and biological activity that often will remove pollutants before they can enter ground water. As a result, mining activities which remove vegetation and topsoil will typically make underlying ground water more vulnerable to pollution.

Ecology has defined three types of stormwater for this general permit. Segregation of stormwater types is essential to minimizing the quantity of stormwater which requires treatment before discharge. One type of stormwater does not require treatment, while the other two may require physical or chemical treatment in order to meet the conditions of this permit. BMPs, directly or indirectly, apply to all three types of stormwater.

Type 1 Stormwater: Stormwater falling on undisturbed, natural areas, or completely reclaimed areas should remain clean and require no treatment. Ecology does not consider this type of stormwater as associated with industrial activity so long as this stormwater reaches waters of the state without contacting any machinery, product or raw material piles or other water that has contacted such material. Ecology classified this type of stormwater as Type 1 stormwater for this general permit.

Type 2 Stormwater: Stormwater falling on a portion of a site that has been disturbed, for example land cleared in preparation for mining or other industrial activity, is classified as Type 2 stormwater until industrial activity such as mining, processing or manufacturing occurs.

Type 3 Stormwater: Stormwater falling on the part of a site where manufacturing, processing, active storage, or mining takes place is classified as Type 3 stormwater. This type of stormwater has the greatest potential to become contaminated prior to discharge to waters of the state.

Although stormwater discharges are more common in Western Washington than Eastern Washington, all parts of the state will occasionally receive significant rainfall events that can result in the discharge of stormwater. The proposed permit requires implementation of best management practices (BMPs) for stormwater management in all locations.

3.2.2 Process Water

Most mining-related facilities use some water to mine, process, handle or transport mined material. This water is categorized as process wastewater. Most process wastewater results from washing and screening mined aggregate materials. Facilities may also use water to clean truck tires and wheels in order to prevent tracking of mud and dirt onto public paved roads.

In addition to these easily identified sources of wastewater, many other activities covered under this permit can impact groundwater and surface water. The activities that may generate wastewater include concrete truck cleanup, equipment maintenance, and cleanup of spills or leaks from tanks and equipment. Facilities that conduct many types of activities, from mining through batch plant operations, generate the greatest volume of wastewater and have the most varied sources of potential water contamination.

3.2.3 Mine Dewatering Water

Mine dewatering water is a type of wastewater generated at some facilities which is not a direct result of using water to accomplish a processing function. This water is incidental to the mining operation and includes groundwater that seeps into the mine pit or accumulates due to

precipitation into the mine pit. Suspended solids may be the only contaminant requiring treatment in these circumstances. Water entering the mine site; subsequently commingling with process water becomes process water and is subject to process water requirements.

3.2.4 Wastewater Volume and Pollutant Characteristics

The wastewater discharges from the facilities covered under this general permit are usually intermittent or “batch” discharges. The size of facilities covered under this permit ranges from facilities discharging only as a result of precipitation to large integrated sand and gravel mines with associated concrete manufacturing discharging on a daily basis. Wastewater generation varies significantly from site to site. Facilities substantially reduce the total quantity of effluent discharged when they reuse settled water for processing and washing.

Facilities can potentially cause adverse water quality impacts through wastewater discharges from on-site processes or conditions. Table 1 below summarizes these potential water pollutants and sources. These sources and pollutants can lead to wastewater characterized by: elevated pH, excessive suspended solids, elevated dissolved solids, or petroleum products contamination.

Table 1: Potential Pollutants and Sources at Sand and Gravel Facilities

Contaminant	Source
Hydrocarbons (oil and grease, hydraulic fluid, and fuels)	Spills or leaks from equipment and storage tanks Maintenance shop Hot mix asphalt plant wet scrubber Vehicle and equipment washing Release agent application
Turbidity, Suspended solids	Washing, screening, or crushing rock Stripping and digging operations Seepage from working face Stormwater run-on and runoff from disturbed areas Runoff from overburden, waste piles, and stockpiles Dust suppression Processing wastes Wet scrubber wastes Vehicle washing and cleanout
Alkalinity/High pH, Total Dissolved Solids	Concrete truck wash water Concrete batch plant water Concrete recycling

Contaminant	Source
Chlorides	Concrete admixtures
Sulfates	Concrete admixtures
Ligninsulfonate	Dust suppression

The following is a list of typical impacts caused by polluted wastewater discharges:

- **Human Health:** In general, untreated wastewater is unsafe. Untreated wastewater is not safe for people to drink, and is not recommended for swimming.
- **Drinking Water:** In some areas of Washington, notably Spokane County and parts of Pierce and Clark counties, gravelly soils allow rapid infiltration of stormwater. Untreated stormwater discharging to the ground could contaminate aquifers that are used for drinking water.
- **Salmon Habitat:** Toxic chemicals in wastewater can harm immature fish and the adults returning to spawn. Sediment can affect spawning grounds.

3.3 SEPA Compliance

State law exempts the issuance, reissuance, or modification of any wastewater discharge permit from the *State Environmental Policy Act* (SEPA) process as long as the permit contains conditions that are no less stringent than federal and state rules and regulations (RCW 43.21C.0383 and WAC 197-11-855). This proposed reissued general permit does not (a) Add to the covered area, which is the entire State of Washington; (b) Add to the type of facilities that must be covered; (c) Allow the discharge of additional pollutants; and (d) Contain conditions less stringent than the applicable federal and state rules and regulations.

3.4 Summary of Compliance with the Previous Permit

The original Sand and Gravel General Permit went into effect in 1994. Since then there has been a large decrease in the number of numerical effluent violations. The Sand and Gravel Industry has worked to comply with the conditions in the permit and their efforts have shown in their reported monitoring data, reduction of violations, and the reduction of Ecology enforcement actions.

Table 2 represents the approximate number of violations during the 2016 permit cycle (Ecology ran a compliance report that spanned from April 1, 2016 to July 1, 2020 for a total of 51 months). During this time there were 2,627 permit violations averaging 51.5 violations per month. This is almost an 18% reduction in the number of violations compared to the amount reported (3,634 permit violations over 58 months averaging 62.6 violations per month) in the 2016 Sand and Gravel Fact Sheet. Late submittal of Discharge Monitoring Reports (DMRs) continues to be the most common permit violation.

Table 2: Types and Approximate Number of Violations during the 2016 Permit

Violation	Number of Violations	Percentage of all Violations
Late Submittal of DMRs	1488	57%
Analysis not Conducted	381	15%
Numeric effluent violation	299	11%
Frequency of Sampling Violation	224	9%
Warning Limit Exceedance	93	4%
Failure to develop any or adequate SWPPP/SWMP	27	1%
Best Management Practice Deficiencies	25	1%
Failure to Maintain Records	23	1%
Failure to Conduct Inspections	12	0%
Discharge Without a Valid Permit	9	0%
Improper Chemical Handling	9	0%
Improper/ Incorrect Reporting	8	0%
Improper Operation and Maintenance	6	0%
Failure to Implement SWPPP/SWMP	5	0%
Failure to Submit DMRs	4	0%
Violation Specified in Comment (Other)	4	0%
Failure to Notify	3	0%
Failure to submit required report (non-DMR, non-pretreatment)	2	0%
Unapproved Operation	2	0%
Failure to submit required permit application information	1	0%
Narrative Effluent Violation	1	0%
Unapproved Bypass	1	0%
Total	2,627	

The amount of numeric effluent violations also decreased to 299 over 51 months averaging 5.9 violations per month from 485 over 58 months averaging 8.4 violations per month reported in the 2016 Fact Sheet. This represents approximately a 30% reduction in the number of numeric effluent violations. Table 3 shows the breakout of numerical effluent violations from April 1, 2016 to July 1, 2020. pH violations continue to be the most common type of effluent violation; followed by turbidity. Section 6.2.2 of this fact sheet contains additional information about the numerical effluent violations.

Table 3: Approximate Number of Effluent Violations during the 2016 Permit

Parameter	Number of Violations	Percentage of Total Violations
pH (Hydrogen Ion)	181	62%
Turbidity	70	24%
Total suspended (TSS)	7	2%
Oil and Grease	26	9%
Total Dissolved Solids (TDS)	9	3%
Total	293	

During the same period of April 1, 2016 to July 1, 2020, Ecology took 322 enforcement actions. Over 60% of these permit enforcement actions were informal. Table 4 shows the number of the different types of enforcement actions Ecology took during this period.

Table 4: Approximate Number of Ecology Enforcement Actions during the 2016 Permit

Enforcement Action Type	Total	Percentage of all Enforcement Actions
Informal Action - Letter	162	50%
Field Ticket - Corrections Required	79	25%
Informal Action - Email	20	6%
Notice Of Violation	19	6%
Informal Action - Phone call	14	4%
Field Ticket Notice Of Penalty	11	3%
Informal Action - Inspection	8	2%
Admin Order	3	1%
Civil Penalty	2	1%
Admin Order - Agreed/Consent Order	1	0%
Admin Order - Agreed/Consent Order Amendment	1	0%
Admin Order Immediate Action	1	0%
Total	322	

Ecology staff try to visit every site at least once per five year permit cycle. Because of the large number of Permittees, and the excellent compliance rates for the industry as a whole, Ecology typically concentrates repeat visits on facilities with compliance problems.

4.0 Laws and Regulations

This section contains a brief description of Federal and State laws related to the Sand and Gravel General Permit. More information about these laws and the determination of effluent limits is within Section 6.2.2 of this fact sheet.

4.1 Federal Clean Water Act

This permit implements sections of the Federal Clean Water Act (CWA), the U.S. Environmental Protection Agency rules, and the Washington State Water Pollution Control Act (RCW 90.48).

The federal Clean Water Act (CWA, 1972, and later modifications in 1977, 1981, and 1987) established water quality goals for the surface waters of the United States. One of the mechanisms for achieving goals of the CWA is the National Pollutant Discharge Elimination System (NPDES) permitting program. In Washington State, Ecology has been delegated authority to administer the NPDES program for most dischargers. Chapter 90.48 RCW defines Ecology's authority and obligations in administering the NPDES permit program.

4.1.1 EPA Rules / Human Health Criteria

The EPA and the Department of Ecology have promulgated numeric water quality criteria for the protection of human health in respectively 40 CFR 131.45 and Chapter 173-201A WAC. These criteria are designed to protect humans from exposure to pollutants linked to cancer and other diseases, based on consuming fish and shellfish and drinking contaminated surface waters. Ecology has determined that the discharge from this industry group is unlikely to contain chemicals regulated for human health.

4.2 The State Water Pollution Control Act and State Standards

In addition to federal laws, there are state laws for the control of pollution. Chapter 90.48 Revised Code of Washington (RCW), known as the Water Pollution Control Act, requires a permit to regulate discharges of pollutants or waste materials to waters of the state (RCW 90.48.162). The act prohibits the discharge of toxicants which would violate any water quality standard, including toxicant standards, sediment criteria, and dilution zone criteria (RCW 90.48.520). RCW 90.48.035 grants Ecology the authority to adopt water quality standards for waters of the state. Ecology has adopted the following standards:

- Chapter 173-200 WAC Ground Water Quality Standards
- Chapter 173-201A WAC Water Quality Standards for Surface Waters
- Chapter 173-204 WAC Sediment Management Standards

These standards were designed to protect existing water quality and preserve the beneficial uses of waters of the state. These standards generally require that permits issued by Ecology ensure that regulated discharges will not violate standards, or that a compliance schedule be in place to bring dischargers into compliance. Additionally, Ecology must include permit conditions which

require all known, available, and reasonable methods to control toxicants in the applicant's wastewater.

4.3 Whole Effluent Toxicity

The Water Quality Standards for Surface Waters require that the effluent not cause toxic effects in the receiving waters. The commonly available detection methods cannot detect many toxic pollutants. However, one can measure toxicity directly by exposing living organisms to the wastewater in laboratory tests and measuring the response of the organisms. Toxicity tests measure the aggregate toxicity of the whole effluent, and therefore this approach is called whole effluent toxicity (WET) testing.

Ecology does not expect toxicity caused by unidentified pollutants in the discharge as determined by the screening criteria given in Chapter 173-205 WAC. Therefore, the proposed permit does not include whole effluent toxicity testing. Ecology may require effluent toxicity testing in the future, if it receives information that toxicity may be present in this effluent. The permit requires that discharges cause no toxicity.

5.0 Antidegradation

Federal regulations (40 CFR 131.12) and the Water Quality Standards for Surface Waters of the State of Washington (WAC 173-201A-300, 310, 320, 330) establish a water quality antidegradation program. The purpose of the antidegradation program is to:

- Restore and maintain the highest possible quality of the surface waters of Washington.
- Describe situations under which water quality may be lowered from its current condition.
- Apply to human activities that are likely to have an impact on the water quality of surface water.
- Ensure that all human activities likely to contribute to a lowering of water quality, at a minimum, apply all known, available, and reasonable methods of prevention, control, and treatment (AKART).
- Apply three Tiers of protection (described below) for surface waters of the state.

The federally mandated program establishes three tiers of protection for water quality. Tier I ensures the maintenance and protection of existing and designated uses. Tier I applies to all waters and all sources of pollution. Tier II prevents the degradation of waters that are of a higher quality than the criteria assigned, except where such lowering of water quality is shown to be necessary and in the overriding public interest. Tier II applies only to a specific list of polluting activities. Tier III prevents the degradation of waters formally listed as "outstanding resource waters," and applies to all sources of pollution.

This permit addresses antidegradation of Tier I and Tier II waters. Ecology has determined that there are no coverages under this permit to Tier III waters.

Washington's Tier II requirements for general permits are outlined in WAC 173-201a-320(6).

5.1 How the Sand and Gravel General Permit meets the Antidegradation Requirement

Each time Ecology reissues the Sand and Gravel General Permit, it evaluates the permit conditions to determine if additional or more stringent requirements should be incorporated.

Ecology's evaluation of the Sand and Gravel General Permit includes an ongoing review of information on pollution prevention and treatment practices for wastewater discharges. Sources of such information include:

1. **Comments on draft permit.** Ecology's public process for developing the proposed permit included a preliminary draft language comment period and stakeholder meetings. Ecology asked for input on opportunities to improve and simplify requirements without compromising environmental protection. Ecology received written comments from over 16 entities and additional verbal comments.
2. **Statewide implementation team.** A statewide Ecology Sand and Gravel Permit Team discusses compliance issues, guidance, and information on improved BMPs.
3. **Ecology's Stormwater Management Manuals.** Ecology periodically updates the stormwater management manuals based on new information and science. The update process includes a public involvement element. Since the Sand and Gravel General Permit requires permittees to select BMPs from the most recent edition of the stormwater manuals (or functionally equivalent) the BMPs contained in updated stormwater manuals are adopted by permittees. This improves the effectiveness of stormwater controls for protecting water quality and meeting the intent of the antidegradation provisions of the water quality standards.
4. **Technology Assessment Protocol – Ecology (TAPE) process.** This formal process reviews and tests emerging treatment technologies for eventual adoption in Ecology's stormwater management manuals.
5. **Permittee compliance reports.** Each permittee submits to Ecology monitoring results and special submittals. Ecology staff review and act on reports to address compliance issues and provide technical assistance.
6. **Informal literature review and expert discussions.** When determining some of the requirements in the permit Ecology conducted informal literature reviews to gather information. Ecology also held e-mail and phone conversations with professional hydrogeologists, professional engineers, and other experts.

7. **Public hearings and formal draft comment period.** Ecology will review and use public comment and testimony from public hearings and during the public comment period on the formal draft permit to develop the final permit.
8. **Adaptive permit management.** The permit contains an adaptive management process that requires permittees to implement timely revisions to their Site Management Plans when discharges exceed the effluent limits. As such, stormwater and process water controls on individual projects are subject to ongoing refinement (such as addition of new BMPs enhancement of existing BMPs, and/or improvements to chemical treatment processes). This reduces the amount of pollutants that would otherwise be discharged to receiving waterbodies.

These efforts and the effluent limits in this permit, based on water quality criteria, constitute Ecology's antidegradation plan.

6.0 Explanation of Permit Conditions and Revisions

Ecology issued the original Sand and Gravel General Permit in 1994. Since then the permit has been revised six times by six different permit writers. One of the most common comments Ecology receives from Sand and Gravel personnel is how difficult the permit is to read and understand. These comments have come from not only new permittees but from veteran operators as well.

During this sixth revision of the Sand and Gravel General Permit, Ecology has focused on clarifying key components of the permit. The changes in the draft permit are minimal and should not result in operational changes at Sand and Gravel facilities.

6.1 S1. Permit Coverage

Permit Special Condition S1, Permit Coverage, defines the types of specific activities that qualify for coverage under the permit. Some facilities may require coverage for stormwater only because zero discharge categories for process water apply according to Federal Regulations.

Because a general permit is designed to provide environmental protection under conditions typical for the covered industry group as a whole, it will not be appropriate for every situation. Environmental protection cannot always be assured when site specific conditions at a facility are not typical of the industry group or are beyond the scope of the proposed general permit. Special Condition S1.B identifies specific situations where facilities are excluded from coverage under the proposed general permit and may require coverage under an individual permit.

6.1.1 Proposed Revisions

Ecology doesn't propose any changes to S1 of the permit.

6.1.2 Background

North American Industry Classification System (NAICS) and Ecology Codes

The North American Industry Classification System (NAICS) was adopted in 1997 to replace the Standard Industrial Classification (SIC) system. Ecology lists the NAICS codes in numerical order in Table 1 in S1. Appendix 1 of the Permit provides the corresponding SIC Codes.

The primary purpose of the NAICS is for the use by Federal statistical agencies to classify business establishments for the purpose of collection, analyzing, and publishing national business economy data. The NAICS was not established for the purpose of applying environmental requirements. However, Ecology and EPA use the NAICS/SIC codes within regulations and permits because they are already familiar to permittees and provide an already existing classification system. The NAICS does have some limitations.

In the 2010 permit asphalt recycling activities were associated with code 324121 (Asphalt Paving Mixture and Block Manufacturing); concrete recycling activities were associated with code 327999 (All Other Miscellaneous Nonmetallic Mineral Product Manufacturing). The North American Industry Classification System does not have specific codes related to the recycling of asphalt and concrete. Instead, per NAICS the activities would fall under the classification of the end product of the recycling activities.

For example, a permittee might recycle concrete and use the material to form concrete blocks (NAICS 327331), or Ready-Mix Concrete (NAICS 327320), or a new statue (NAICS 327390), and there is no clear code for activities where the material is crushed and then sold as an intermediate product. Thus, there is an unlimited number of NAICS codes that could be associated with recycling activities.

Instead of having multiple codes associated with asphalt and concrete recycling, Ecology assigns asphalt recycling and concrete recycling codes created by Ecology. ECY001 relates to asphalt recycling and ECY002 relates to concrete recycling. This helps Ecology track the process water and stormwater discharges associated with these specific recycling activities. This information can assist Ecology in future permit revisions to determine effluent limits and best management practices. Plus, this data can show consistent compliance of the industry with meeting effluent limits.

The Ecology codes also allow Ecology to establish requirements only for the applicable industry segment that conduct recycling activities as opposed to all concrete or asphalt related NAICS activities. This allows Ecology to focus BMPs and technical assistance on activities that potentially have a higher environmental risk.

Authorization

Ecology is clarifying that permittees are only authorized to discharge process water, mine dewatering water, and stormwater per their coverage page. This includes both the NAICS codes

(and /or concrete /asphalt recycling activities) and the types of discharge (surface, groundwater, or both).

For example, Ecology personnel have visited sites where the permittee was authorized to discharge to groundwater but was also discharging to surface water without getting prior authorization (through the permit application or by contacting Ecology). Also, personnel have come across permittees discharging process water associated with NAICS codes for which Ecology was not notified about.

In order for Ecology to administer the permit and to ensure that permittees are meeting SEPA and Public Notice Requirements, Ecology must know what activities are occurring on the site and the location of potential discharges.

Permittees can modify their coverage pages by contacting their regional Ecology office. Some changes require Permittees to complete a form whereas other changes may only require an e-mail, phone call, or letter.

Accessory Uses of Site

The main purpose of S1 is to clarify what activities are and are not covered under the Sand and Gravel General permit. This section meets that purpose by addressing unpermitted activities.

Ecology has observed activities at permitted sites that are not consistent with activities in S1. These activities include composting operations, vehicle storage, and disposing of construction materials. These activities have the potential to discharge pollutants other than those characteristic of this industry. Facilities must obtain the appropriate permit(s) for those additional activities not covered under this general permit. Permittees must also separate these waste streams from their wastewater covered under the Sand and Gravel General Permit.

6.2 S2. Effluent Limits

Permit Special Condition S2, Effluent Limits, lists the effluent limits based on discharge type, NAICS (or Ecology) code, and discharge location. S2 also details the monitoring schedule for each parameter.

Table 2 in S2 details the effluent limit and monitoring schedule for discharges of process water and mine dewatering water. Table 3 in S2 details the effluent limits and monitoring schedule for discharges of stormwater.

6.2.1 Proposed Revisions

The proposed permit contains no changes to the effluent limits for pH, turbidity, total suspended solids, oil sheen, and total dissolved solids. Ecology proposes the following revisions to S2:

- Clarify language related to oil sheen monitoring in Table 2 to indicate monitoring is required “Daily when discharge occurs”

Clarify monitoring requirements for Oil Sheen

Ecology is proposing to change the language in Tables 2 and 3 related to monitoring requirements for Oil Sheen. Table 2 in the permit gives effluent limits and monitoring requirements for process water and mine dewatering water. The monitoring requirement for Oil Sheen was listed as “Daily when runoff occurs”. Ecology is proposing to change the language to “Daily when discharge occurs” as process water and mine dewatering water are discharged and do not “runoff”. Table 3 gives effluent limits and monitoring requirements for Type 2 and Type 3 stormwater. The monitoring requirement for Oil Sheen is for discharges of stormwater. Ecology is proposing to change the language to “Daily when discharge occurs” in Table 3 also.

6.2.2 Background

Process Water Discharges Prohibited from Asphalt Paving Mixture and Block Manufacturing

Process water discharges to surface waters were prohibited in the first issuance of the Sand and Gravel General permit in 1994 for asphalt paving mixture and block manufactures (in accordance with 40 CFR Part 443, Subpart B). Beginning in August 4, 2006 these permittees were also prohibited from discharging process water to groundwater.

These prohibitions to surface water were included in S3.G of the 2010 permit and the 2005 permit but not clearly stated within Table 2 in S2 of the 2010 permit. The permit continues these requirements and clearly states them in Table 2 for NAICS 324121.

What about Dust Control?

Spraying, with non-process water or process water that has been treated is permitted under this permit for use on unpaved access roads, to maximize dust control, and to minimize the off-site tracking of sand, soil, sediment, or similar materials. However, permittees cannot allow untreated discharges of dust control water to run off-site or to surface water. Also, pools or ponds of dust control water may be considered a groundwater discharge. Permittees should attempt to minimize puddling, pooling, and ponding of dust control water. If a discharge to surface water or groundwater occurs then the dust control water is considered a process water discharge.

The lined impoundment requirements in S3.E allow asphalt batch plants to discharge process water to a lined impoundment; however, even after treatment, the permittee is still prohibited from discharging the wastewater per the prohibitions listed in Table 2.

Ecology codes ECY001 and ECY002 in Table 2 and Table 3

Concrete recycling activities historically were listed under NAICS code 327999. Ecology maintains the process water and stormwater effluent limits and monitoring requirements for concrete recycling activities. An example of process water from recycling concrete activities is water used to wash the recycled concrete material in order to remove fines.

Asphalt recycling activities historically were listed under NAICS code 324121. Ecology groups asphalt recycling activities with those associated with asphalt production. Both asphalt production and asphalt recycling process water and stormwater discharges have the same effluent limits and monitoring requirements.

NAICS 212319 process water discharges to surface water

S3.G of the 2010 permit prohibited the discharge of process water to surface waters from “NAICS 212319, (SIC 1499), All other Nonmetallic Minerals”. SIC code 1499 corresponds to both NAICS codes 212319 and 212399.

Ecology looked at the SIC code 1499 description and compared the activities within it to NAICS codes 212319 and 212399. The majority of activities were classified under NAICS code 212399 the only exceptions were bitumens (native) mining, bituminous limestone quarrying, and bituminous sandstone quarrying. These three activities were classified under NAICS code 212319. Ecology therefore added a footnote to Table 2 to note that the permit prohibits surface water discharges of process water associated with these activities.

Effluent Limits

Federal and State regulations require that effluent limits set forth in a NPDES permit must be either technology-based or water quality-based.

- **Technology-based limits:** are set by regulation or developed on a case-by-case basis (40 CFR 125.3, and Chapter 173-220 WAC). Technology-based limits are based upon the treatment methods available to control or treat specific pollutants.
- **Water quality-based limits:** are based upon compliance with the Surface Water Quality Standards (Chapter 173-201A WAC), Ground Water Standards (Chapter 173-200 WAC), Sediment Quality Standards (Chapter 173-204 WAC) or the National Toxics Rule (40 CFR 131.36).

The more stringent of these two limits must be chosen for each parameter of concern

The federal government evaluated many categories of dischargers as a result of the directives of the Clean Water Act. Section 301(b) of the Clean Water Act requires the achievement of effluent limits for point sources, which are based on the application of the best practicable control technology currently available (BPT) and the best available demonstrated control technology (BCT) which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants.

The information contained in the Code of Federal Regulations (and the associated development documents) and analyses of the data submitted on recent DMRs from permitted facilities form the basis for the technology-based effluent limits of this proposed general permit.

State law also requires facilities to treat all wastewater with all known, available and reasonable methods of prevention, control and treatment (AKART). This State technology-based requirement may be more stringent than federal requirements.

State law contains both numerical and narrative water quality criteria. They limit the levels of pollutants allowed in receiving water to protect aquatic life, recreation, aesthetic values, and human health. Ecology uses the numerical surface water quality criteria along with chemical and physical data for the wastewaters and receiving waters to derive the effluent limits in the discharge permit. When water quality-based limits are more stringent or potentially more stringent than technology-based limits, the discharge must meet the water quality-based limits.

Although water quality concerns for the state's groundwater and surface water are not truly separate and distinct, there are potential differences in the fate of pollutants traveling to groundwater versus direct discharge to surface water. The 2010 permit reflects these differences with additional monitoring parameters for those discharges to surface water (e.g. turbidity and total suspended solids). Because of these differences, water quality-based considerations will consider groundwater discharges and surface water discharges separately.

pH

The technology-based limit for pH of discharges is 6 to 9 standard units. Ecology derived this pH range from the federal effluent guidelines (40 CFR Part 436, Mineral Mining and Processing Point Source Category). The costs and benefits of pH adjustment are presented in the "Development Document for Concrete Products."

Applicable criteria are defined in Chapter 173-201A WAC for aquatic biota. Criteria for some parameters consider the type of water body (e.g., lake, stream, or ocean) and the beneficial uses.

The tables below list the criteria for pH for both fresh and marine water.

Table 5: Aquatic Life Criteria for pH from Chapter 173-201A WAC

Aquatic Life pH Criteria in Fresh Water		Aquatic Life pH Criteria in Marine Water	
Use Category	pH Units	Use Category	pH Units
Char Spawning and Rearing	pH shall be within the range of 6.5 to 8.5, with a human-caused variation within the above range of less than 0.2 units.	Extraordinary quality	pH must be within the range of 7.0 to 8.5 with a human-caused variation within the above range of less than 0.2 units.
Core Summer Salmonid Habitat	Same as above.	Excellent quality	pH must be within the range of 7.0 to 8.5 with a human-caused variation within the above range of less than 0.5 units.

Aquatic Life pH Criteria in Fresh Water	
Use Category	pH Units
Salmonid Spawning, Rearing, and Migration	pH shall be within the range of 6.5 to 8.5 with a human-caused variation within the above range of less than 0.5 units.
Salmonid Rearing and Migration Only	Same as above.
Non-anadromous Interior Redband Trout	Same as above.
Indigenous Warm Water Species	Same as above.

Aquatic Life pH Criteria in Marine Water	
Use Category	pH Units
Good quality	Same as above.
Fair quality	pH must be within the range of 6.5 to 9.0 with a human-caused variation within the above range of less than 0.5 units.

A general permit must consider the typical discharge conditions and cannot readily accommodate site specific variables. Ecology determined that surface water discharges for this industry group are most likely to freshwater (WAC 173-201A-200).

Chapter 173-200 WAC has established a numerical criteria for pH of 6.5 to 8.5 standard units for groundwater.

Since both the surface and groundwater criteria are more restrictive than the technology-based limit of in the range of 6.0 to 9.0 standard units, the proposed permit assigns a water quality-based limit of 6.5 to 8.5 standard units for discharges to both groundwater and surface water.

Stormwater, process water, and mine dewatering water may be stored in impoundments prior to discharge where algae and other aquatic plants may be present. These plants consume carbon dioxide during photosynthesis and reduce the amount of carbon dioxide and bicarbonate in the water, causing an increase in pH. Primary productivity generally produces the highest pH during the middle of the afternoon and the lowest pH just before sunrise.

Figure 2 shows the reported pH values during the 2016 permit cycle². The compliance rate with the effluent limits of 6.5 to 8.5 during the 2010 permit was 99%.

² Data from April 1, 2016 to July 1, 2020.

Figure 2: Reported pH Values during the 2016 Permit²

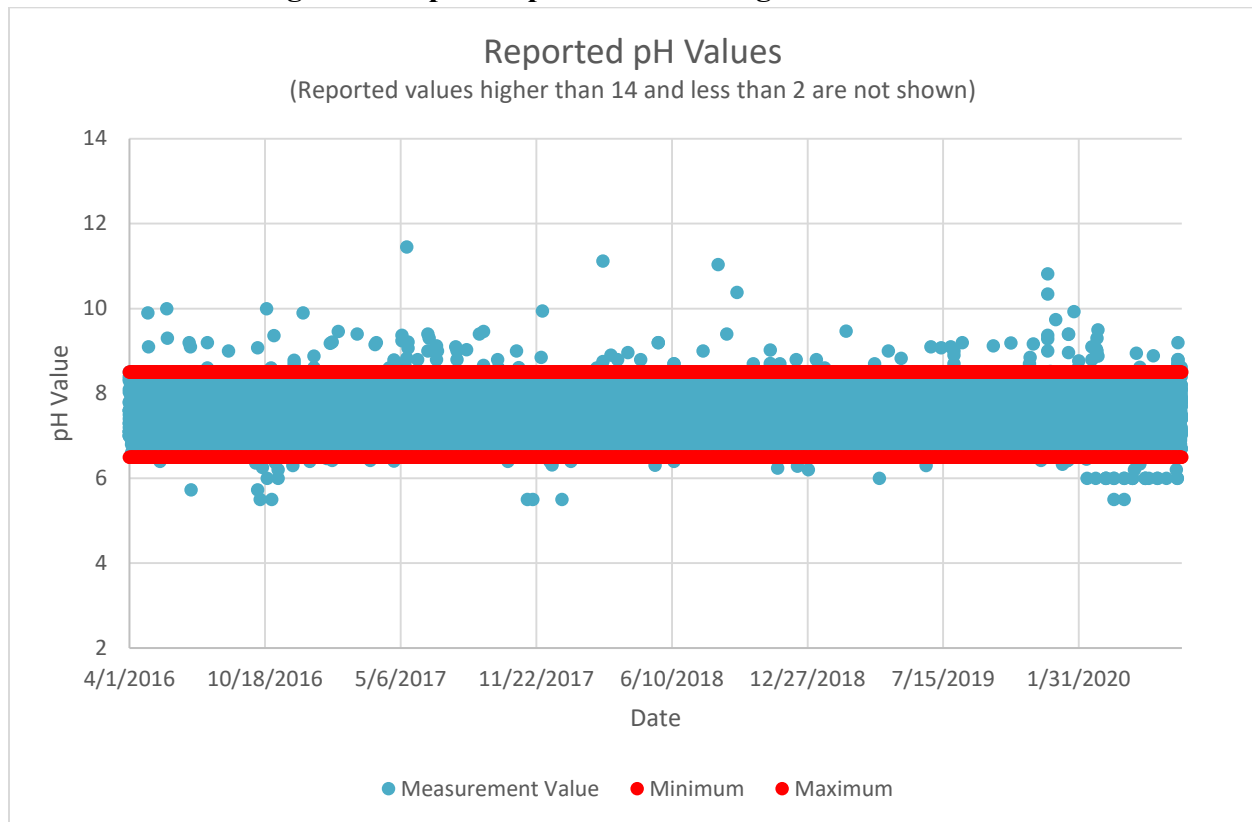


Figure 3 shows the number of pH violations based on values reported to Ecology by permittees for several years. The graph shows that generally in the last 20+ years the number of pH violations has been decreasing.

Figure 3: Approximate Number of pH Violations per Year



(Note: In 2004 Ecology transitioned between tracking databases, thus the information for 2004 is incomplete and not reflected in the figure).

The proposed permit retains the 6.5 – 8.5 pH effluent limits.

Turbidity

Table 7 lists the applicable criteria for turbidity as defined in Chapter 173-201A WAC for aquatic biota for both fresh and marine water.

Table 6: Aquatic Life Criteria for Turbidity from Chapter 173-201A WAC

Aquatic Life Turbidity Criteria in Fresh Water		Aquatic Life Turbidity Criteria in Marine Water	
Category	NTUs	Category	NTUs
Char Spawning and Rearing	Turbidity shall not exceed: <ul style="list-style-type: none"> • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU. 	Extraordinary quality	Turbidity must not exceed: <ul style="list-style-type: none"> • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Core Summer Salmonid Habitat	Same as above.	Excellent quality	Same as above.

Aquatic Life Turbidity Criteria in Fresh Water	
Category	NTUs
Salmonid Spawning, Rearing, and Migration	Same as above.
Salmonid Rearing and Migration Only	Turbidity shall not exceed: <ul style="list-style-type: none"> • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.
Non-anadromous Interior Redband Trout	Turbidity shall not exceed: <ul style="list-style-type: none"> • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Indigenous Warm Water Species	Turbidity shall not exceed: <ul style="list-style-type: none"> • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.

Aquatic Life Turbidity Criteria in Marine Water	
Category	NTUs
Good quality	Turbidity must not exceed: <ul style="list-style-type: none"> • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.
Fair quality	Same as above.

The water quality-based turbidity allowance for discharges to salmonid waters is less than 5 NTU above background. Allowing a dilution factor of 10 and a background level of 0 NTU in the receiving water, a water quality-based limit of 50 NTU was assigned in the 2010 permit.

Figure 4 shows the reported turbidity values during the 2016 permit cycle. The data collected during the 2016 permit cycle indicates that 99% of samples reported under the permit were less than or equal to the 50 NTU limit.

Figure 4: Reported Turbidity Values²

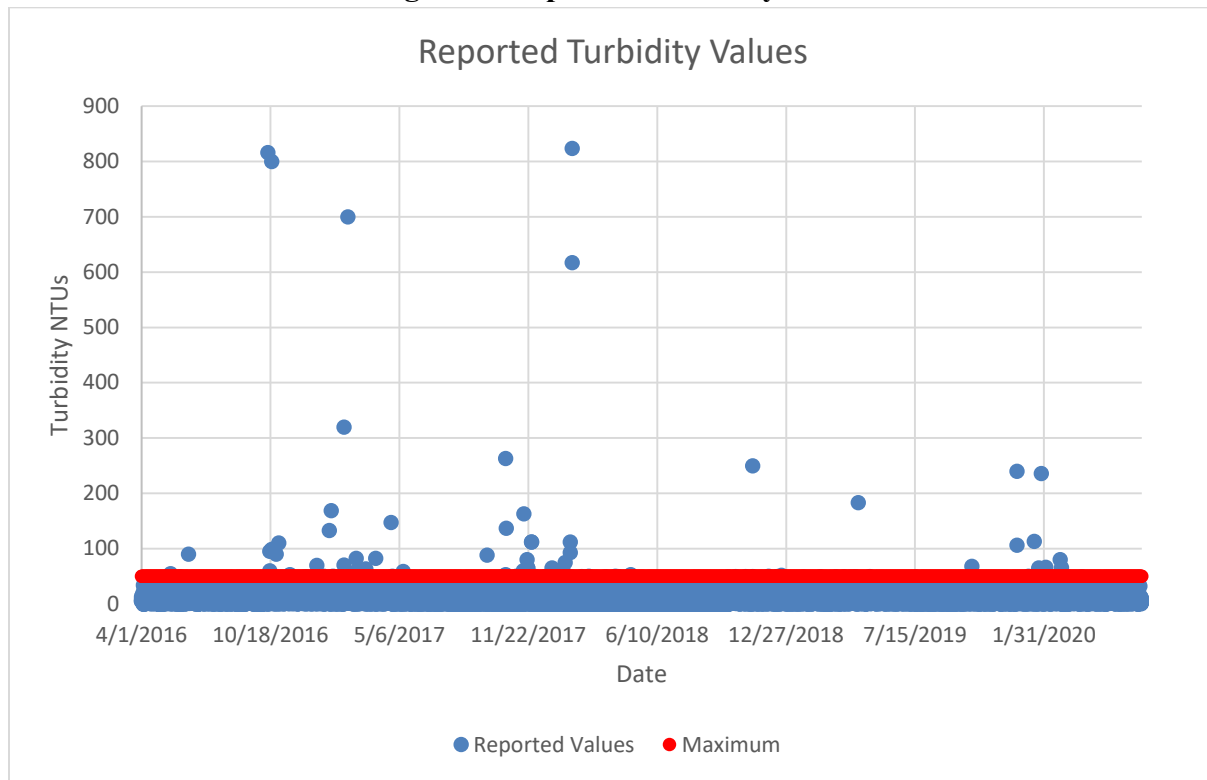


Figure 5 below shows the number of numerical turbidity violations since the first issuance of the Sand and Gravel General Permit. In 2009 there was a large spike in the number of turbidity violations which was significantly reduced with the reissuance of the permit in 2010. Since 2010, the number of turbidity violations have remained fairly constant.

Figure 5: Approximate Number of Turbidity Violations per Year



(Note: In 2004 Ecology transitioned between tracking databases, thus the information for 2004 is incomplete and not reflected in the figure).

Based on this data, Ecology has determined that 50 NTU is economically achievable by dischargers covered by the 2010 permit and therefore constitutes a valid technology-based limit (AKART, BCT). The proposed permit continues a turbidity limit of 50 NTU, which will meet water quality standards in most discharge situations.

Total Suspended Solids (TSS)

Ecology derived the limit on discharges of total suspended solids (TSS) from the requirement to recycle wastewater from the federal effluent guidelines (40 CFR Part 436 and Part 443), the report *Suspended Solids Removal in the Crushed Stone Industry*, and discharge monitoring records.

Industrial sand facilities (NAICS code 212322), in accordance with 40 CFR Part 436, Subpart D, must recycle at least a portion of the wastewater and not exceed the following limits for discharge of process water and mine dewatering: 45 mg/l TSS daily maximum and 25 mg/l TSS for a monthly average. The proposed permit contains a limit of 25 mg/L as a quarterly average.

Facilities must direct wastewater to a common area in order to prepare the water for reuse to meet the BPT requirement to recycle wastewater. Treatment removes the solids that might otherwise clog piping, damage pumping equipment, and possibly contaminate the product.

The TSS encountered in the process water rapidly settles resulting in TSS removal efficiencies ranging from 90% with very dilute waste streams to over 99% for the typical process waste streams. Despite the relatively high TSS loadings, the material settles easily, and facilities can meet the limits of 40 mg/l TSS so long as they maintain adequate settling time and properly design and operate treatment systems.

Figure 6 below, shows the reported TSS values for the 2016 permit cycle. The majority of the values were below either the 25 mg/L effluent limit or the 40 mg/L effluent limit respectively. There were 10 single sample values reported above the quarterly limit of 25 mg/L and 14 single sample values reported above the quarterly limit of 40 mg/L. These resulted in only 7 violations of the quarterly limit (5 of the 25 mg/L limit and 2 of the 40 mg/L limit).

Figure 6: Reported Total Suspended Solids Values²

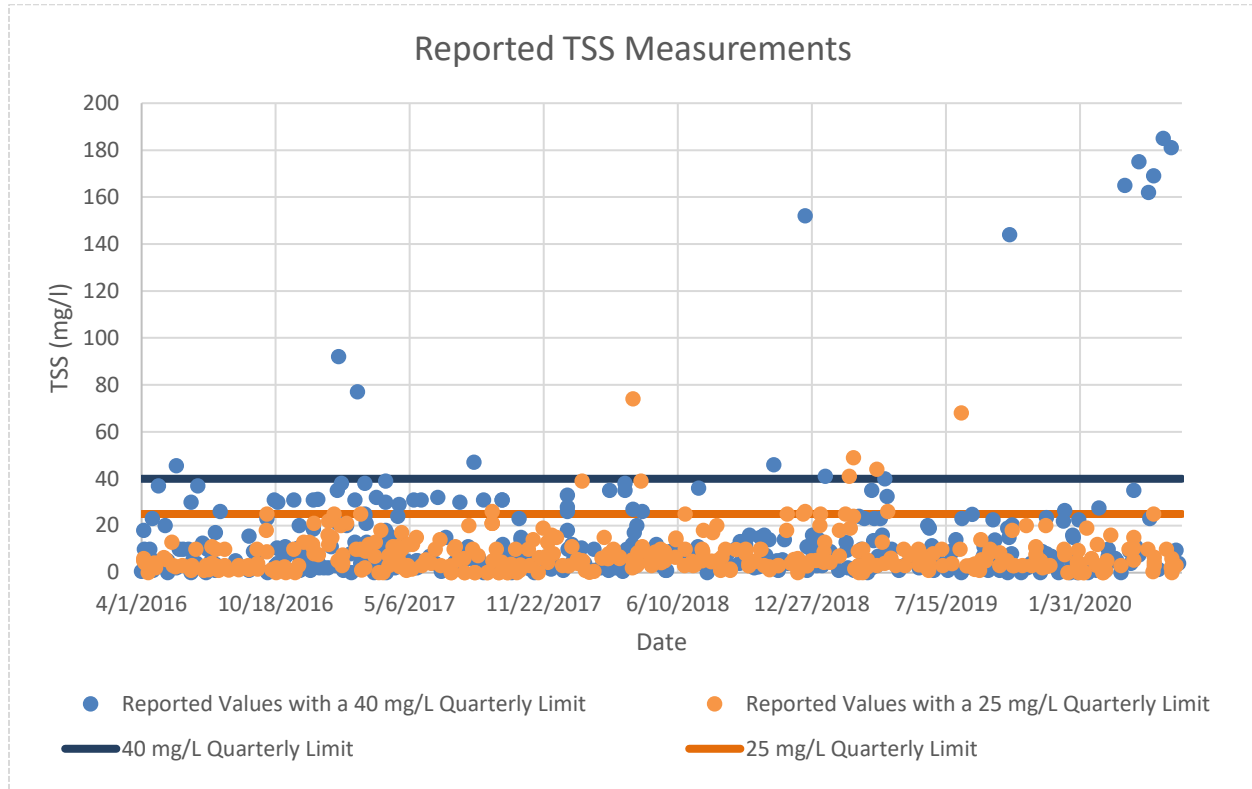
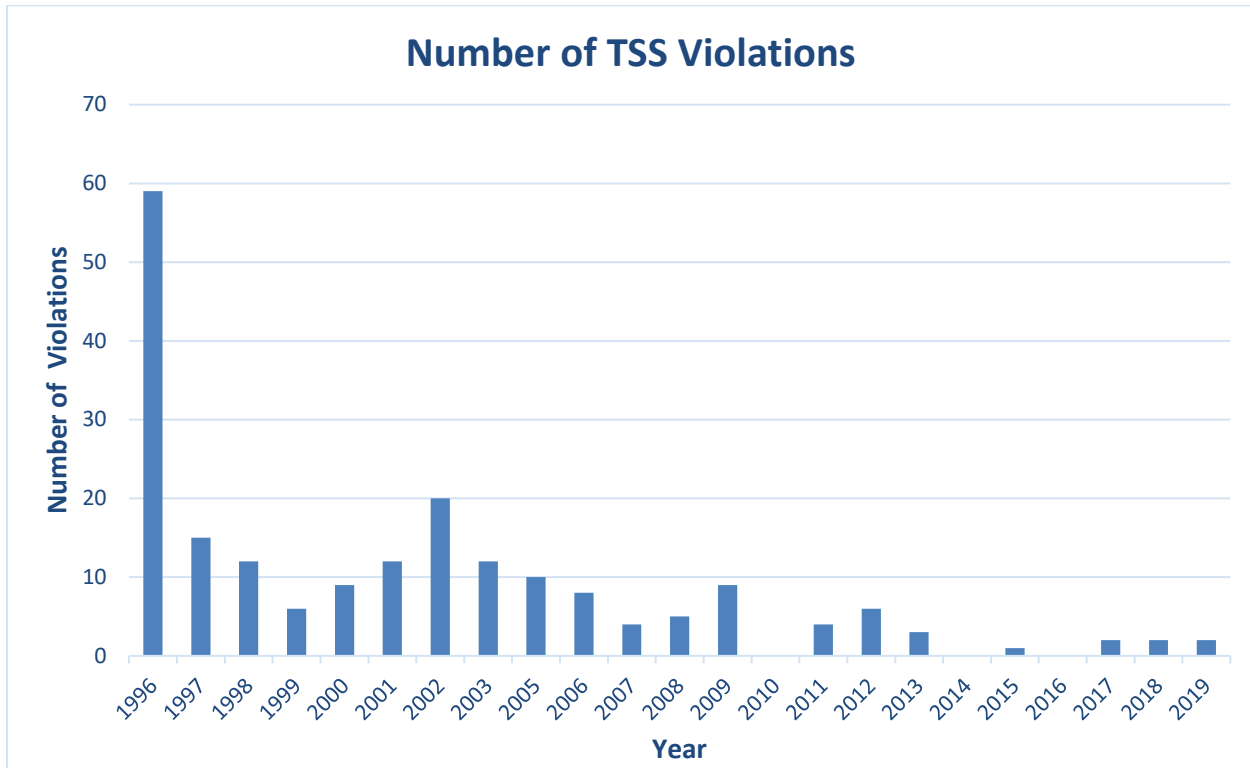


Figure 7 below shows the number of numerical TSS violations since the first issuance of the Sand and Gravel General Permit. There was a drastic reduction in the number of TSS violations following the first issuance of the permit. Followed by additional reductions over the past 10 years.

Figure 7: Approximate Number of Total Suspended Solids Violations per Year



(Note: In 2004 Ecology transitioned between tracking databases, thus the information for 2004 is incomplete and not reflected in the figure).

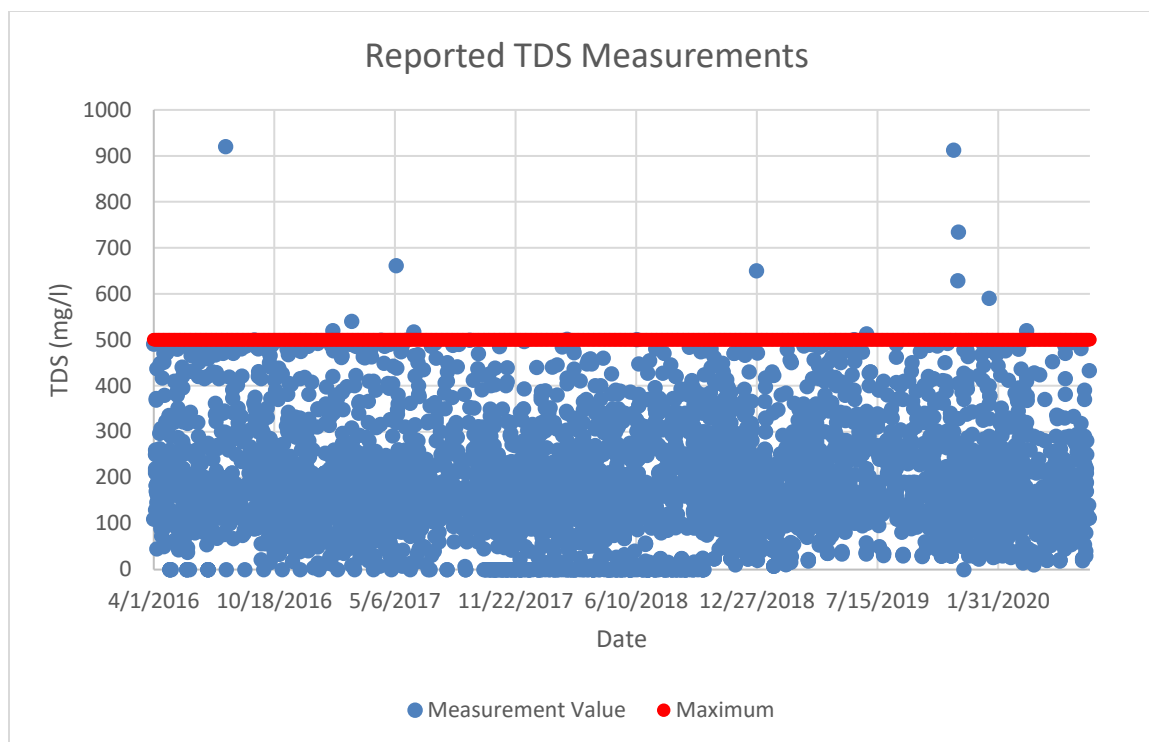
Consistent with federal policy and regulation Ecology has chosen to specify limits that define the limit of performance that can reliably be achieved. The proposed permit retains TSS effluent limits. Ecology believes these limits still represent AKART using source control, reuse, sedimentation and settling agents for pollutant control.

TDS

The permit requires concrete batch plants and other facilities with similar discharges to measure total dissolved solids (TDS) in process water discharged to ground. These discharges have the potential to violate ground water criteria (Chapter 173-200 WAC), which is 500 mg/l TDS.

During the 2016 permit cycle there were only 13 single sample measurements above the 500 mg/L effluent limit which resulted in 9 violations of the monthly average permit limit, representing a 99% compliance rate. The reported monitoring values for total dissolved solids are show in Figure 8. Ecology proposes to keep the same 500 mg/L effluent limit.

Figure 6: Reported Total Dissolved Solids Measurements²



Oil Sheen

The proposed permit continues to prohibit oil sheen, however, Ecology does not consider the presence of an oil sheen as a permit violation if the facility reports the presence of the sheen, explains the cause, remedies the sheen condition when discovered, and has preventative BMPs in. Ecology proposes to retain the same requirements for oil sheen as in the 2010 permit. Discharge of sheen or petroleum products to waters of the state is a violation and must be reported as a violation.

Discharge Flow and Temperature

New Permittees that discharge to surface water may be required to monitor temperature during the summer or fall months to determine if there is a potential to violate water quality temperature standards. Specified monitoring frequencies take into account the quantity and variability of the discharge, the treatment method, past compliance by the industry as a whole, significance of pollutants, and the cost of monitoring. Ecology will work with new permittees to determine if monitoring is necessary and to determine an appropriate monitoring schedule.

6.3 S3. Additional Discharge Limits

The purpose of S3 is to describe additional discharge limits beyond the effluent limits in S2 of the permit.

6.3.1 Proposed Revisions

Proposed revisions to Section S3 in the draft permit include:

- Clarifying requirements for inactive sites.

6.3.2 Background

Best Management Practices (BMPs)

BMPs are a very significant part of complying with the permit conditions. Permittees must implement BMPs to meet effluent limits, AKART requirements, and site management plans. This section requires that BMPs be consistent with Ecology's Stormwater Manuals for Western/Eastern Washington or an approved equivalent.

Facilities must base their BMP selections upon either the *Presumptive Approach* or the *Demonstration Approach*. Each discharger can select BMPs best suited for reducing the pollutants in its stormwater on the basis of site-specific conditions. Facilities choosing the demonstrative approach may select BMPs different than, but functionally equivalent to, the BMPs in an approved SWMM but must document their functional equivalency in the SMP.

For the *Demonstration Approach*, the facility must document the technical basis for all stormwater BMPs within the Site Management Plan (SMP). The SMP must document:

1. How the facility selected the stormwater BMPs.
2. The pollutant removal performance expected from the selected BMP.
3. The technical basis which support the performance claims for the selected BMPs.
4. An assessment of how the selected BMP will comply with state water quality standards, satisfy the state AKART requirements, and the federal technology-based treatment requirements under 40 CFR part 125.3

For the *Presumptive Approach*, facilities which follow the stormwater management practices contained in approved stormwater management manuals (SWMM), including the proper selection, implementation, and maintenance of appropriate best management practices, do not need to document the technical basis for the BMPs being used. However, the SMP must clearly state which approved SWMM was used.

Inactive Sites

The 2010 permit prohibited excavation at inactive sites. Ecology has clarified that excavation for the purpose of maintaining BMPs is allowable. The permit still prohibits the excavation for mining or material production purposes.

The 2016 permit addressed process water or mine dewatering discharges from inactive sites. These types of discharges from inactive sites are rare but they do occur when there is residual process water in a holding pond or mine dewatering water that may need to be discharged. Ecology requires inactive sites that have process water or mine dewatering discharges to monitor

their discharges the same as they would if they were an active site. Ecology has revised the text in S3.J of the draft permit to clarify that inactive sites can not generate process water.

Ecology proposes to relocate the requirement to have inactive sites certified by a professional engineer every three years from S3.J.3 to S4.F.5 in the draft 2021 permit. S3.J.3 in the draft permit now refers to S4.F.5 which discusses inactive sites and the certification necessary to make sure that discharge limits are met. The requirement to have a registered professional engineer certify the site is directly from CFR §122.44(i)(4)(iv). S4.F.5 was modified to reflect the language in CFR §122.44(i)(4)(iv).

Water Management

The lined impoundment requirements in S3.E.2 allow asphalt batch plants to discharge process water to a lined impoundment. However, even after treatment the permittee must meet the limits within S2 and S3 of the permit. Thus, permittees are still prohibited from discharging process water from asphalt batch plants even after treatment in a lined impoundment. Facilities must use lined impoundments where the process water discharge has a significant potential to contaminate ground water and must construct and maintain these impoundments to prevent leakage. Permittees should inspect their impoundments periodically (typically once every 5 years) to ensure that their impoundments are functioning correctly. Lined impoundments may develop cracks and holes over time that may not result in noticeable visual conditions.

Discharges to Surface Water – Additional Effluent Limits

Ecology cannot allow a new discharge to a listed waterbody (issuance of permit is prohibited) if the discharge will cause or contribute to a violation of water quality standards as specified in S3.G.3. Ecology may allow a new discharge if it meets the applicable water quality criteria. The applicable federal regulation is 40 CFR 122.4(i) Sec. 122.4 Prohibitions. *No permit may be issued:*

- i. To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards....*

All references and permit requirements associated with Section 303(d) of the Clean Water Act pertain to the most current EPA-approved 303(d) listing of impaired waters that exists when a complete application for coverage is submitted to Ecology.

Ecology plans to continue implementing a permit application review process to identify discharges to impaired waters with an approved or established Total Maximum Daily Load (TMDL), Category 4a on the approved 303(d)-list. Where an operator indicates on its application for coverage form that the discharge is to one of these waters, Ecology will review the applicable TMDL to determine whether the TMDL includes requirements that apply to the individual discharger (permit applicant). Ecology will notify Permittees subject to numeric effluent limitations or waste load allocations related to a TMDL (S3.G.5) in writing when Ecology grants permit coverage. TMDLs approved after the issuance date of this permit become applicable to the Permittee only if Ecology imposes the TMDL through an administrative order, or through modification of permit coverage.

6.4 S4. Monitoring Requirements

The purpose of section S4 in the permit is to describe the monitoring and inspection requirements.

Proposed revisions to Section S4 in the draft permit include:

- Clarifying monitoring requirements for inactive sites in S4.C.1.
- Moving requirements for Inspections at inactive sites from S3.J.3 to S4.J.5

Discharges to Groundwater

Sampling of only one discharge type (such as mine dewatering water), when other discharge types are present (such as process water), is not considered representative and doesn't meet the requirements of S4.B.1.

Monitoring is intended to verify how well control measures are working to assure compliance with discharge limits. The permit requires facilities to collect samples that represent the operating conditions at a site and the nature of discharges that occur.

Permittees should sample all of the types of discharges they have. Permittees should consider the similarities of the contributing site conditions when choosing representative sampling points. If the different sample points are all from stockpile runoff of the same material, one sample point may be sufficient. If some sample points are located around stockpiles and others around a concrete batch plant, then two sample points will likely be required. If the sample points are from mine dewatering water and process water, then two sample points would likely be required.

Representative sampling of discharges to ground water does not mean that facilities must sample all ponds and puddles onsite. It does mean that the facility must identify the number of samples necessary to accurately represent discharge conditions.

Permittees' monitoring plans should include documentation of the testing conducted by the facility to determine representative sampling for their site. Permittees should do this for their stormwater, process water, and mine dewatering water sampling. The facility should periodically conduct additional sampling to assure that its monitoring plan provides representative sampling.

Monitoring at Inactive Sites

Discharges of process water or mine dewatering water from inactive sites are rare but they do occur. For example, process water ponds may still discharge even though processing activities on-site have ceased. Or, mine dewatering is still necessary even though mining activities have ceased.

Ecology requires inactive sites that have process water (from previous activities that have ceased) or mine dewatering discharges to monitor their discharges the same as they would if they

were an active site. S4.C.1 of the draft permit specifies that discharges of process water or mine dewatering water from inactive sites must monitor per S4.A and S4.B..

Stormwater monitoring at inactive sites is **not** required, except when either or both of the cases below occur:

1. There is a process water and / or mine dewatering water discharge from the inactive site.
2. The permittee adds or withdraws raw materials or finished products from stockpiles during the calendar quarter **and** the site has a discharge of stormwater to surface waters of the state.

Sampling and Analytical Procedures

The origin of the language in S4.D.7 is WAC 173-226-090(2)(c) and CFR122.41(j)(3).

In 2014, EPA published a final rule titled: National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001). The rule became effective on September 18, 2014, modifying portions of 40 CFR Parts 122 and 136. The rule provides criteria for determining that a method is “sufficiently sensitive”.

In order to address this rule, Ecology S4.D.6 and specifies quantitation levels for the monitoring parameters in S2 within the new Table 4. Ecology lists additional monitoring information in Table 4. Ecology hopes that the table will help permittees understand the methods, equipment types, and holding times associated with the monitoring requirements.

S4.D.6 and Table 4, in the draft permit, use the term *quantitation level*; which is the lowest concentration of an analyte that can be measured with a defined level of confidence. This may also be called the reporting level by some laboratories.

Laboratory Accreditation

If a permittee obtains laboratory accreditation for total suspended solids (TSS) or total dissolved solids (TDS) then they must also obtain laboratory accreditation for conductivity, turbidity, and pH. This is a requirement of chapter 173-226-090 WAC.

Permittees may conduct their own turbidity and pH sampling and analysis without accreditation as long as they send their TSS and TDS samples to an accredited laboratory for analysis.

Information on how to obtain accreditation is available from Ecology’s lab accreditation program at: <http://www.ecy.wa.gov/programs/eap/labs/index.html>, or by calling (360) 871-8840.

Inspections

Ecology maintained the inspection requirements from the previous permit in the draft permit.

Site inspections provide timely feedback to the operator on the effectiveness of BMPs. Inspections provide information on when BMP repair, maintenance, or staff training is necessary to improve the quality of wastewater discharged offsite, or when additional BMPs may be required. Site changes over time may necessitate the relocation or addition of BMPs. Rainfall and other natural or environmental forces may cause BMPs to fail. Sites that are inspected regularly typically tend to cause fewer water quality violations. Ecology considers site inspections a requirement of AKART.

Ecology limits oil/water separator inspections to when permittees operate equipment. This will reduce the burden of oil/water separator inspections for inactive sites that do not have equipment operating.

Ecology moved the inspection requirements for inactive sites from S3.J.3 to S4.J.5. S3 in the permit deals with monitoring requirements, not inspection requirements. No changes were made to the permit language, the requirements were moved to the section on inspection requirements for clarity.

Inspection Reports

The permit includes a variety of inspections (oil/water, oil sheen, semi-annual, erosion etc.) for which inspection reports are required. The term “report” does not require a fully written accounting of the inspection.. Completed inspection forms, logs, checklists, or records used to meet Washington State Department of Transportation or Mine Safety and Health Administration requirements may also be acceptable as inspection reports provided they address the items in S4.G.1.a-f of the permit.

S4.G.1.a of the permit requires permittees to include a summary of the inspection within their inspection reports. The purpose of this requirement is to identify within the inspection report the areas of the facility that the permittee inspected and any major observations. This summary does not have to be written in paragraph form. As long as the permittee’s records identify the items inspected and the observations observed this summary can be in any format.

In S4.G.1.d Ecology proposes referring to the Site Management Plan (SMP) instead of the Stormwater Pollution Prevention Plan (SWPPP). The permit requires a variety of inspections not all of them relate to the SWPPP. Observations should also be made related to the Erosion and Sediment Control Plan, Monitoring Plan, and Spill Plan.

If permittees perform maintenance actions at the time of the inspection they should include this information in the inspection report per S4.G.1.e.

During the required inspections conducted by facility personnel, the designated inspector shall identify any additional corrective actions or maintenance tasks during the inspection which cannot be corrected immediately. The inspector should note these items in their inspection reports per S4.G.1.f of the permit. For example, an inspector may note that their discharge pond

requires dredging and their outlet structure requires a new grate which has to be ordered. Another example is noting that within a week a pumper truck is scheduled to clean out the oil water separator.

Ecology has a requirement in S4.G.1.f that addresses identifying corrective actions / maintenance tasks to ensure that permittees still identify and complete maintenance items.

The permit does require permittees to comply with its terms and conditions. This responsibility includes hiring and training staff so that they have the capability to properly conduct water quality inspections and complete the necessary inspection reports.

Exemption from Visual Monitoring

Ecology includes the exemption for visual monitoring permit language S4.H.

For tracking and reporting purposes, Ecology needs the specific latitude and longitude (expressed in decimal degrees) of any outfalls for which permittees request an exemption from visual monitoring. Permittees may keep the visual monitoring exemption within any section of their site management plan; these exemptions do not necessarily need to be within the SWPPP.

6.5 S5. Site Management Plan (SMP)

Special Condition S5 requires all facilities to have a Site Management Plan (SMP). The SMP is a consolidated plan consisting of an Erosion and Sediment Control Plan (ESCP), a Monitoring Plan, a Stormwater Pollution Prevention Plan (SWPPP), and a Spill Prevention Plan.

The SMP must be developed and implemented to identify and control pollution by industrial activities. The SMP objectives include: elimination of commingling of process water and stormwater, implementation of best management practices (BMPs), and the prevention of water quality standard violations.

There are no proposed revisions to section S5 in the draft permit.

SMP Sections

Ecology includes S5.A, which clarifies that the SMP still contains the ESCP, Monitoring Plan, SWPPP, and Spill Control Plan;.

SMP Requirements

S5.B of the permit clarifies that permittees must have and fully implement a site specific Site Management Plan (SMP). Generic SMPs can be used as templates but permittees must have plans that are specific and include the applicable BMPs located at the specific site.

Permittees must review their SMP at least once a year. Ecology requires that permittees should note in their SMP the date of their annual review and the names of the personnel that conducted the review.

When does my SMP need to be updated for the new permit?

Permittees should update their SMPs for the permit reissuance during their annual SMP review. Thus, if the permit becomes effective on April 1, 2020 all permittees should have their SMPs updated by January March 31, 2021. Permittees that need additional time should contact their regional Ecology office.

Modifications of the SMP

Permittees are required to modify their SMPs whenever they have a permit violation or are found in non-compliance. For example, a permittee may have a violation of oil sheen and may need to modify their spill control plan as well as provide additional secondary containment; therefore, it would be appropriate for them to modify both their SWPPP and Spill Plan sections in their SMP.

Ecology also requires that permittees update their SMP as necessary to respond to changes in their facility and site conditions. For example, if site re-grading shifts drainage patterns and necessitates the relocation of BMPs the permittee should update their SMP. Or, if the permittee adds an additional component to their operation, such as an asphalt plant, then the permittee should also update their SMP.

Site Map

Ecology includes all site map requirements in S5.D.. If they choose to, permittees may still have two, or more, site maps.

Ecology requires that permittees make their maps to scale or include relative, or approximate, distances between significant structures and drainage systems. This helps permittees and Ecology track spills and determine their discharge quantities. Ecology does not intend for permittees to necessarily hire surveyors to determine distances or to create a scaled map. Paced out distances, and distances provided by online mapping tools, are adequate enough to provide a general sense of site sizes.

Ecology uses the term monitoring points consistently throughout the permit. The electronic reporting applications also use the term monitoring points. This term is used instead of sampling points or sampling locations. Permittees must report their monitoring information on Discharge Monitoring Report (DMRs) forms. These forms require unique identifiers, up to four characters in length, for each monitoring point for tracking and reporting purposes. Ecology requires that permittees include these unique identifiers on their site maps.

6.6 S6. SMP Section 1: Erosion and Sediment Control Plan (ESCP)

All facilities must have a completed an Erosion and Sediment Control Plan (ESCP). Facilities must select, install, and maintain appropriate erosion and sediment control BMPs.

Ecology requires permittees to stabilize their BMPs if they begin reclaiming a site and cease reclamation, without beginning mining operations again.

There are no proposed revisions to section S6 in the draft permit.

6.7 S7. SMP Section 2: Monitoring Plan

S7 of the permit requires permittees to develop a plan for how and where they will conduct the monitoring required by the permit. The monitoring plan must identify and provide basic information about each monitoring point. Through the plan, permittees must ensure that they collect samples that represent the operating conditions at a site and the nature of discharges that occur. The plan should include documentation of the testing conducted by the facility to determine representative sampling for their site. The facility should periodically conduct additional sampling to assure that its monitoring plan provides representative sampling.

Representative sampling of discharges to ground water does not mean that facilities must sample all ponds and puddles onsite. It does mean that the facility must identify the number of samples necessary to accurately represent discharge conditions. If all the ponds and puddles onsite have the same pH, one sample will typically represent site conditions. If pH at ponds and puddles in one area of a site are typically higher or lower than the rest of the site, a facility must collect more than one sample.

Stormwater discharges to surface water pose another problem for representative sampling. Since storm events are not under the control of the facility, discharges may occur at any time of day or night and with varying intensity. The intent of monitoring is to determine if control measures are adequate. Therefore, some sampling must be conducted during a major storm events when control measures are most stressed. Since storm events cannot be predicted far in advance, the proposed permit requires two samples a month, increasing the odds that facilities will take some samples during the most significant storm events of a month.

There are no proposed revisions to section S7 in the draft permit.

Ecology requires inactive sites that have process water or mine dewatering discharges to develop, maintain, and comply with a monitoring plan. Ecology also requires that inactive sites that are adding or withdrawing from stockpiles and have a surface water discharge must also develop, maintain, and comply with a monitoring plan.

Since the monitoring plan is part of the Site Management Plan, it is only necessary to state once in the permit that the SMP and all of its modifications need to be signed by the legal responsible

party. Ecology retained this requirement in S5.B.4 and eliminated this duplicative language from the monitoring plan section.

The permit bases monitoring requirements and effluent limits in the permit on NAICS or Ecology code. In order for permittees to know which parameters they need to monitor for, and if they are in compliance with the permit effluent limits, permittees must determine which limits apply to their monitoring points. Ecology requires that permittees document this determination within their monitoring plans.

Ecology requires permittees to notify Ecology of the addition or deletion of monitoring points. Ecology requires that permittees should complete these changes, and modifications to their monitoring points, themselves directly in Ecology's online Water Quality Discharge Monitoring Reporting System (WQWebDMR). This helps to ensure accuracy of the monitoring points, takes Ecology less time and resources for processing, and allows permittees to have more time to make this change before completing their DMRs.

Permittees that receive a waiver from electronic reporting must notify Ecology about changes to their monitoring points before the end of the quarter in which the change will occur. Permittees that receive a waiver will need to provide the latitude and longitude coordinates in decimal degrees and the corresponding monitoring point identifier (up to 4 characters) for all added, deleted, or modified monitoring points.

Examples of modifications to monitoring points include changes due to maintenance conditions (eg. a permittee reshaped their pond so that their discharge location has been moved) or identifier name changes.

6.8 S8. SMP Section 3: Stormwater Pollution Prevention Plan (SWPPP)

The permit requires permittees to identify and control pollution sources that may affect stormwater by developing and implementing a SWPPP. The SWPPP must contain information on all of the operational practices and structures that the site uses to control and prevent stormwater pollution.

There are no proposed revisions to section S8 in the draft permit.

6.8.1 Measures to Prevent Commingling

Both the 2016 permit and the draft permit require permittees to include measures to prevent the addition of process water or mine dewatering water into stormwater, unless the facility is designed for reuse of process water.

There are no proposed revisions for the commingling requirement in the 2016 permit for permittees to include measures to prevent the commingling of stormwater with process water or mine dewatering water.

6.8.2 Source Control BMPs

Ecology has determined the source control BMPs included in the permit will be appropriate for most facilities covered under this permit. Permittees may omit individual BMPs if site conditions render the BMP unnecessary, infeasible, or if the permittee provides an alternative and equally effective BMP. Permittees must not the rational for omission or substitution in the SWPPP.

Secondary Containment

Ecology exempts bitumen from the secondary containment requirements. Ecology believes that spills of bitumen present an extremely low risk to water quality. In almost all cases, spilled bitumen solidifies and stays where it falls. In the extremely rare case that a permittee discovers a sheen or spill from a bitumen tank, that could present a risk to water quality, the permittee should implement their spill control plan and consider providing secondary containment.

In the Stormwater Management Manual for Western Washington, Ecology states that above ground tanks should include secondary containment or be a double –walled tank. Ecology includes similar language to the secondary containment source control BMP in the permit.

How do I handle stormwater in secondary containment areas?

Secondary containment areas should be sloped to drain into a dead-end sump for the collection of leaks and small spills. In some cases the sump might be connected to the sanitary sewer, if approved by the local Sewer Authority, or to appropriate treatment such as an oil/water separator. The sump outlet should have a valve that is normally closed to prevent the release of spilled or leaked liquids. Another option for the discharge of contaminated stormwater is to pump it from a dead-end sump or catchment to a tank or appropriate vehicle for off-site treatment, recycling, or disposal.

Labeling Containers

Ecology requires permittees to label all of their containers. Knowing what is in containers is critical for Permittees to rapidly respond to spills and leaks. Permittees also need to know what is in their containers so they can ensure proper handling.

Leaky Vehicles and Equipment

The permit prevents the discharge of petroleum products per sections S2, S4.F.2.b, S8.D, and S9 in the permit. Having a variation of this requirement repeated in the source control section of the permit is unnecessary. Permittees can prevent these types of discharges using numerous different methods – drip pans, absorbents, and indoor storage are only three. Ecology proposes removing these specific methods from the permit requirements. Permittees will most likely need to implement these management practices anyways to comply with the other sections of the permit.

Spill Kits

Ecology requires that spill kits should be located at used oil storage and transfer stations as well.

Vehicle and Equipment Cleaning Operations

Ecology restates that prohibition of direct discharges to ground or surface water from concrete truck washout in S8.E.7.b.

Ecology provides examples in the permit of on-site sediment treatment structures. These examples include, but aren't limited to, sediment traps, catch basins with gravity separators, and treatment ponds.

Permittees should refer to the following sources for additional guidance on the proper collection system for wash water:

- S431 BMPs for Washing and Steam Cleaning Vehicles/ Equipment / Building Structures in Volume II of the Stormwater Management Manual for Western Washington.
- Section 2 of Ecology's *Vehicle and Equipment Washwater Discharges Best Management Practices Manual*
- BMPs for Washing and Steam Cleaning Vehicles/ Equipment / Building Structures in Chapter 8 of the Stormwater Management Manual for Eastern Washington

Storage of uncured concrete solids and cold mix asphalt

The permit requires permittees to store uncured concrete, any type of concrete solids, returned asphalt, and cold mix asphalt on a bermed impervious surface.

Ecology no longer uses the term "uncured asphalt". The term "uncured asphalt" has been historically and incorrectly applied to the time between initial laydown and the use of the material for its intended function. Asphalt materials do not cure, though they may harden with age. Ecology has determined that hardened ambient temperature plant-mix asphalt poses a low risk to water quality. In the extremely rare case that a permittee discovers a sheen related to ambient temperature plant-mix asphalt, the Permittee should consider the storage of the material on a bermed impervious surface to meet the other requirements within this permit.

The permit also includes a list of specific uncured concrete solids that permittees have to store on a bermed impervious surface. Ecology includes comeback concrete in this list. Comeback concrete is also referred to returned concrete. High pH values are often associated with process water and stormwater that contacts uncured concrete solids. Permittees must treat stormwater that contacts uncured concrete solids and cold mix asphalt materials in a lined impoundment.

Sediment Track Out

The permit requires permittees to manage sediment track out to paved public roads. Ecology refers to all off-site roads not just public roads. The intent of this BMP is to protect surface waters from discharges of highly turbid water. Off-site roads, regardless of public or private status, and their corresponding drainage systems, can be pathways for turbid water discharges.

Permittees' treatment systems to meet the permit conditions in S2 are most likely adequate enough to treat the wastewater from wheel washes and tire baths. Most permittees do not have

access to a sanitary sewer and sanitary sewers are unlikely to accept discharges of wastewater from wheel washes and tire baths. Permittees that do discharge this water to sanitary sewer can continue to do so.

6.8.3 Concrete Recycling BMPs

Ecology is committed to supporting concrete recycling that is done in a manner that is protective of the environment and water quality. Recycling concrete reduces the need for mining virgin aggregate and conserves these scarce natural resources. Recycling concrete also reduces landfill space, stockpiles of waste concrete, and illegal dumping. The 3.7 million tons of construction and demolition debris (which includes concrete wasted) diverted from landfills in Washington in 2011 prevented over 200,000 tons of greenhouse gas emissions – about 60 pounds per person. This is similar to keeping more than 40,000 cars off the road each year.

Washington State also has a unique advantage when it comes to recycled concrete. According to the Washington State Department of Transportation, Washington pavements contain some of the highest quality aggregates in the world; which allows our state to see excellent performance results from both our concrete pavements and our hot mix asphalt pavements.

The major source of concrete for recycling is from the demolition of concrete pavements and structures. Ecology's Waste 2 Resources Program estimates that Washingtonians generated 1,007,851 tons of concrete waste in 2012. Of this amount, approximately 87.7%, or 883,799 tons of waste concrete was diverted for recycling. The amount of recycled concrete has increased significantly since 2000.

Water Quality Concerns

Crushing or fracturing hardened concrete during recycling processes exposes unreacted quicklime or cement. When water contacts the unreacted quicklime or cement chemical reactions occur that result in high pH. Stormwater, erosion, and movement within the stockpile can continuously expose new potential reaction sites.

The American Concrete Pavement Association noted in their 2009 Engineering Bulletin on Recycling Concrete Pavements that engineers should be aware of the highly alkaline nature of recycled concrete aggregates, the relatively high degree of solubility of the hydroxide-bearing components of the material, and the potential increases in pH that could occur in water percolating through recycled concrete (ACPA 2009).

Materials Acceptance Procedures

The ACPA recommends in their 2009 Engineering bulletin that quality control plans should be developed for aggregate production. This includes methods to ensure that reclaimed concrete source materials are not contaminated with unacceptable amounts of deleterious materials. ACPA recommends that these methods should be established prior to using recycled concrete aggregates.

Deleterious material may include the presence of oil, grease, lead paint, rebar, asbestos, and joint sealants (which can contain Polychlorinated Biphenyls, PCBs). Recyclers need to ensure that the waste concrete material that they accept does not contain this deleterious material; or they need to sort out and remove of this deleterious material and dispose of it properly themselves.

Ecology requires that permittees establish materials acceptance procedures within their SWPPP to ensure that inbound recycled concrete materials are not a source of dangerous waste.

Examples of material acceptance procedures include, but aren't limited to: approving incoming material sources, conducting visual inspections to look for painted surfaces, writing material acceptance lists, or getting certification from suppliers for source materials. Ecology does not intend for Permittees to sample / test inbound materials.

Concrete Recycling Stockpiles

The ACPA noted in their 2009 Engineering bulletin on Recycling Concrete Pavements that “depending on the sensitivity of local soils, surface waters and groundwater to the presence of alkaline material, the engineer should set appropriate limits on the proximity of placement of recycled concrete aggregates relative to groundwater and surface waters.”

Ecology requires that permittees who receive permit coverage for their site on or after April 1, 2016 prevent pollution associated with recycled concrete stockpiles by including BMPs for the placement of new concrete recycling stockpiles within their SWPPP. In S8.F.1 of the draft permit Ecology has listed the BMPs that permittees should include.

Permittees may omit these BMPs if their site conditions render the BMP unnecessary or if the permittee provides an alternative and equally effective BMP. Permittees could also show that site conditions render the BMPs unnecessary through a documentation that the hydrogeology of the site prevents exceedance of the groundwater quality or surface water standards or by conducting groundwater monitoring. One example of an alternative and equally effective BMP is to install an impervious liner and collect and treat the wastewater runoff.

6.9 S9. SMP Section 4: Spill Control Plan

There are no proposed revisions to section S9 in the draft permit.

It is typical for the industrial activities covered under this permit to include storage of chemicals that have the potential to cause water pollution if accidentally released. Fuel, hydraulic fluid and other petroleum products are commonly stored onsite and heavy equipment and trucks contain significant quantities of these materials. Spills can and do happen at sites covered under this permit. Facilities must develop, implement, and maintain a spill plan to prevent the accidental release of pollutants to state waters and to respond quickly to clean up spills that may occur.

6.10 S10. Reporting and Record Keeping Requirements

Section S10 is based on the authority to specify any appropriate reporting and recordkeeping requirements to prevent and control waste discharges (WAC 173-226-090).

Proposed revisions to Section S10 in the draft permit include:

- Removing production ranges from S10.B and instead referencing Chapter 173-224 WAC.
- Clarifying the reporting of operating status.
- .

Discharge Monitoring Reports (DMRs)

Ecology requires permittees to submit their discharge monitoring reports regardless of if they had a discharge or not. The DMRs contain the instructions on reporting no discharges.

Ecology requires inactive sites that have process water or mine dewatering discharges to monitor and submit DMRs.

Production Number and Operating Status Reporting

Ecology requires permittees who produce concrete or asphalt to report their production amount range on a yearly basis. Ecology uses this information to calculate fees based on WAC 173-224-040. This will replace the need for Ecology's Fees Unit to send out additional forms asking for this information in the middle of the permit cycle. The draft permit removed the production range designations since these are set through Chapter 173-224 WAC. The draft permit also added language clarifying the "non-operating" fee discount reporting requirements.

Ecology requires permittees to report these numbers in January.

Electronic Reporting

Ecology requires permittees to submit their DMRs electronically using Ecology's online Water Quality Permitting Portal system, unless Ecology grants the permittee a waiver from electronic reporting.

This proposed electronic DMR requirement is expected to save time and resources for permittees and Ecology (e.g., eliminating paperwork, data entry workload, database errors) while improving compliance and protection of water quality. It will also enhance transparency and public accountability.

The electronic DMR waiver provisions are intended to allow a paper DMR option for small business that may not have the ability to use the WQWebDMR system (e.g. they do not have broadband internet or a business computer). The permit does not contain mailing instructions for permittees who receive a waiver. Permittees that receive a waiver must mail their DMRs to the appropriate regional Ecology office. Permittees are responsible for ensuring that their DMRs are received on time.

The requirement for electronic DMRs makes progress with Ecology's obligation to comply with EPA's proposed NPDES Electronic Reporting Rule (40 CFR Parts 122, 123, 127, 403, 501 and 503). RCW 43.17.095 also requires Ecology to offer electronic reporting options.

Clarifying Reporting Timelines for New Permittees

Ecology gives new permittees that receive coverage after the permit effective date more time (varies from 1 day to 3 months) before they are required to begin monitoring and before they need to submit their first DMR.

For example, if a new permittee receive permit coverage on May 16, 2021 they must begin monitoring by July 1, 2021; and their first DMR is due by October 30, 2021.

Although, some permittees may only get a few days this extra time should give new permittees time to set up their *Water Quality* Permitting Portal – Discharge Monitoring Report (DMR) accounts or filling out and submitting an *Electronic Reporting Waiver* form. It will also provide them additional time to purchase monitoring equipment and to prepare for monitoring.

S10.C Records Retention

Ecology requires that permittees retain a copy of their permit coverage page on site or within reasonable access to the site.. The permit coverage page states what types of discharges the permittee has coverage for. Having this onsite helps permittees and Ecology determine effluent limits and permit requirements during operations and inspections. Most permittees have this documentation on site..

Ecology requirements closely match the requirements in CFR 122.41(j)(2) and WAC 173-226-090. WAC 173-226-090 requires the retention of any records of monitoring activities. Discharge Monitoring Reports fall into this category. Permittees may retain either paper or electronic copies.

Ecology requires the permittee to provide a copy of the SMP to the public when requested in writing.

Permittees historically have requested that Ecology provide additional time for responding to public Site Management Plan requests for more than one facility owned or operated by the permittee. Ecology provides permittees up to an additional 10 days per SMP request.

S10.D Reporting Permit Violations

The Code of Federal Regulations 40 CFR 122.41(l)(6), Conditions Applicable to All Permits, specifies the 5 day written reporting timeline for any noncompliance which may endanger health or the environment. Ecology made S6.E.4 consistent with these requirements.

Ecology may waive the written report on case by case basis, if the immediate notification is received within 24 hours. This waiver language is based on 40 CFR 122.41(l)(6)(iii). Permittees that don't notify Ecology within 24 hours must submit a written report.

S10.E Spill Reporting

. RCW 90.56.280 and chapter 173-303-145 WAC require permittees to report spills of oil or hazardous materials. The phone numbers for the Washington Emergency Management Division and National Response Center are now provided.

6.11 S11. Solid Waste Disposal

Ecology does not propose any significant changes to the Solid Waste Disposal section of the permit. The reference to WAC 173-350-990 was corrected to WAC 173-350-410.

Improper solid waste disposal has a potential to cause water pollution. The permit has three sections dealing with solid waste: Solid Waste Handling, Leachate and Recycle Material.

The facility must properly dispose of solid wastes and comply with the applicable solid and hazardous waste regulations (Chapters 173-303 and 173-304 WAC). The solid waste from the activities covered under this permit will most often contain no hazardous waste materials and generally may be used as soil or fill material. However, it is the facility's responsibility to properly designate, handle and dispose of the solid waste. Solid waste from concrete truck washout for instance, may have a high pH and leachate from stockpiles of this material may pollute waters of the state. The small particulate matter (fines) removed from air emissions during the production of asphalt may contain pollutants of concern and should be evaluated for toxic substances to determine appropriate disposal options.

The proposed permit prohibits leachate from solid waste causing violations of surface or groundwater standards.

Sand and gravel facilities sometimes use gravel pits for composting yard debris, storing piles of solid waste, or other activities that can discharge leachate. Discharge from these activities has potential to pollute ground water and the permit does not authorize or regulate these discharges. Chapter 173-350 WAC provides the appropriate regulatory requirements to control these potential discharges. Depending on the activity, that regulation sets requirements for those activities including health department permits, structural, and operational controls. These activities may require an individual or another general wastewater discharge permit. Preventing ground water pollution depends on compliance with solid waste rules to protect groundwater when these operations are located within a gravel pit.

Settling process water and stormwater to remove solids often produces large amounts of solid waste. When the solids are composed of silts and sands, it typically classifies as non-hazardous. These solid waste materials are easily disposed of since mineral mining properties are often large and space for land disposal is readily available. Inert materials may also be used for backfill at mines. These "wastes" may in fact be a marketable by-product. Since these industries have sufficient space and earth moving capabilities, they manage it with greater ease than most other industries.

Sludges that form in settling ponds used for pH control, however, may require special attention to disposal options. Reuse of the sludge is the preferred option but where that is not practical, it may be acceptable to spread these solids over a large area. Storing the sludge in a pile that allows leachate to infiltrate to ground or discharge to surface water is unacceptable. Facilities must properly designate these solid wastes to ensure the wastes are not hazardous prior to disposal.

6.12 S12. Permit Application

Special Condition S12 describes how to obtain coverage for the permit as authorized under WAC 173-226-200. This permit condition also describes public notice requirements, SEPA compliance and the effective date of coverage.

Proposed revisions to Section S12 in the draft permit include:

- Removing language related to permit fees from S12.D.
- Clarifying termination requirements for facilities that have a surface mine reclamation permit from the Department of Natural Resources

Ecology requires permittees to apply electronically using Ecology's online Water Quality Permitting Portal system (unless Ecology grants them a waiver from electronic reporting).

Portables

The permit allows portable operations to obtain coverage under the general permit.. Portable coverage is not intended to provide an alternative to site coverage for ongoing activities. As an example, a site that has more or less continuous asphalt batch activities, even though these activities are by different portables, is expected to have asphalt batch as a part of site coverage. Or, a concrete batch portable that returns to the same site year after consecutive year is not considered short-term and coverage should be for a permanent concrete batch site.

Coverage for a portable is not required when the site already has coverage for that activity. For example, a site may include asphalt batch operation as a part of the site permit even though the owner does not maintain an asphalt batch plant at the site. When the site has included coverage of the activity, the permittee must notify Ecology that the batch operation will occur but separate coverage by the portable is not required. Coverage for portable rock crushers is not intended to be a substitute for permit coverage of a mining site.

Coverage only applies to the specific portable equipment identified in the application but will provide coverage at all sites where the portable operates. Portable facilities must operate at each site under the same permit conditions and requirements as a permanent operation.

In order to implement the permit, Ecology needs to be able to track the location of portable operations. Portable facilities are frequently moving on to the next site without restoring sites or submitting Notices of Completion. Ecology requires Portable Facilities to submit a completed and signed "Portable Beginning of Operation Notice" form no less than 10 days before beginning

operations. Ecology also requires a completed and signed “Portable Completion of Operation Notice” form be submitted after portable activities have ceased, the equipment has been removed, and the land affected by the portable operation has been restored in accordance with S12.B.3 in the permit..

Fees

Ecology is proposing removing language related to operating status as it pertains to permit fees to reduce permittees’ confusion regarding inactive and active status for monitoring purposes versus fee purposes. Permittees may be inactive and have reduced monitoring requirements but may still have to pay fees unless they commit to being nonoperating for a minimum period of time. Alternatively, permittees may be active but only operate for a limited amount of time and be nonoperating for fee purposes.

Terminating Coverage

Ecology proposes adding language clarifying termination requirements for permittees that also have a Department of Natural Resources (DNR) reclamation permit. The new language references DNR permit termination requirements as opposed to just the releasing of the DNR permit bond. Ecology maintains the ability to terminate permit coverage for permittees that have been reclaimed to the satisfaction of the Ecology permit manager.

Ecology permit managers must determine that the site(s) have been returned to an appropriate condition before granting termination. Permittees must comply with all conditions of this permit including payment of any assessed fees until Ecology terminates permit coverage. When requesting termination, the permit cancellation date cannot be earlier than the date Ecology receives the permittee’s Change Request Form.

6.13 General Conditions

General Conditions are based directly on state and federal law and regulations and are similar for all NPDES permits issued by the Ecology. The following general conditions were added, removed, or modified to the general conditions in the draft permit for consistency:

- G3 Proper Operations and Maintenance was removed. S3.A and S3.E in the permit cover requirements for operation and maintenance of facilities and systems of collection and treatment for pollution control.
- G6 Duty to Provide Information was added. This general condition requires Permittees to submit additional information or records to Ecology when necessary in accordance with 40 CFR 122.41(h).
- G19 Permit Transfer was removed and the requirements were moved to S12.F Transferring Permit Coverage in the special conditions section of the permit. This

general condition outlined the requirements for transferring permit coverage and these requirements were moved to the already existing S12.F.

The remaining general conditions were renumbered as necessary.

Condition G1 Signatory Requirements requires responsible officials or their designated representatives to sign submittals to Ecology in accordance with 40 CFR 122.22, 40 CFR 122.22(d), WAC 173-220-210(3)(b), and WAC 173-220-040(5).

Condition G2 Discharge Violations requires discharges and activities authorized by the draft permit to be consistent with the terms and conditions of the permit in accordance with 40 CFR 122.41.

Condition G3 Reduced Production for Compliance was renumbered from Condition G4. This general condition requires Permittees to reduce production to maintain compliance in the event of a reduction, loss, or failure of a treatment facility in accordance with 40 CFR 122.41(c).

Condition G4 Bypass Procedures was renumbered from Condition G5. This general condition prohibits bypass unless certain conditions exist in accordance with 40 CFR 122.41(m).

Condition G5 Right of Inspection and Entry was renumbered from Condition G6. This general condition requires the Permittee to allow Ecology to access the facility and conduct inspections of the facility and records related to the permit in accordance with 40 CFR 122.41(i), RCW 90.48.090, and WAC 173-220-150(1)(e). For mine sites under the jurisdiction of the Federal Mine Safety and Health Administrations, inspections and entry must comply with MSHA safety requirements.

Condition G7 Notification of Change in Covered Activities was renumbered from Condition G8. This general condition requires the Permittee to notify Ecology when facility changes may require modification of permit coverage in accordance with 40 CFR 122.62(a), 40 CFR 122.41(l), and WAC 173-220-150(1)(b).

Condition G8 Permit Coverage Revoked was renumbered from Condition G9. This general condition identifies conditions for revoking coverage under the general permit in accordance with 40 CFR 122.62, 40 CFR 124.5, WAC 173-226-240, WAC 173-220-150(1)(d), and WAC 173-220-190.

Condition G9 General Permit Modification and Revocation was renumbered from Condition G10. This general condition identifies conditions that may result in modifying or revoking the general permit in accordance with 40 CFR 122.62, 40 CFR 124.5, and WAC 173-226-230.

Condition G10 Reporting a Cause for Modification was renumbered from Condition G11. This general condition requires the Permittee to notify Ecology when facility changes may require modification or revocation of permit coverage in accordance with 40 CFR 122.62(a), 40 CFR 122.41(l), and WAC 173-220-150(1)(b).

Condition G11 Toxic Pollutants was renumbered from Condition G12. This general condition requires the Permittee to comply with more stringent toxic effluent standards or prohibitions established under Section 307(a) of the Clean Water Act in accordance with 40 CFR 122.41(a)(1), WAC 173-220-120(5), and WAC 173-201A-240.

Condition G12 Other Requirements of 40 CFR was renumbered from Condition G13. This general condition incorporates all other requirements of 40 CFR 122.41 and 122.42 by reference.

Condition G13 Compliance with Other Laws and Statutes was renumbered from Condition G14. This general condition prohibits the Permittee from using the permit as a basis for violating any laws, statutes or regulations in accordance with 40 CFR 122.5(c).

Condition G14 Additional Monitoring was renumbered from Condition G15. This general condition notifies the Permittee that additional monitoring requirements may be established by Ecology in accordance with 40 CFR 122.41(h).

Condition G15 Payment of Fees was renumbered from Condition G16. This general condition requires the Permittee to submit payment of fees in accordance with Chapter 173-224 WAC.

Condition G16 Removed Substances was renumbered from Condition G17. This general condition prohibits the reintroduction of removed substances back into the effluent in accordance with 40 CFR 125.3(g), RCW 90.48.010, RCW 90.48.080, WAC 173-220-130, and WAC 173-201A-240.

Condition G17 Requests to be Excluded from Coverage Under a General Permit was renumbered from Condition G18. This general condition specifies that Permittees may request their general permit coverage be replaced by an individual permit in accordance with 40 CFR 122.62, 40 CFR 124.5, and WAC 173-220-040.

Condition G18 Duty to Reapply was renumbered from Condition G20. This general condition requires the Permittee to reapply for coverage 180 days prior to the expiration date of this general permit in accordance with 40 CFR 122.21(d), 40 CFR 122.41(b), and WAC 183-220-180(2) (Note: This would only apply to sites with permit coverage near the time of permit expiration).

Condition G19 Upset was renumbered from Condition G21. This general condition provides the regulatory context and definition of “Upset” in accordance with 40 CFR 122.41(n).

Condition G20 Penalties for Violating Permit Conditions was renumbered from Condition G22. This general condition describes the penalties for violating permit conditions in accordance with 40 CFR 122.41(a)(2).

Condition G21 Appeals was renumbered from Condition G23. This general condition defines appeal options for the terms and conditions of the general permit and of coverage under the permit by an individual discharger in accordance with RCW 43.21B and WAC 173-226-190.

Condition G22 Severability was renumbered from Condition G24. This general condition invokes severability of permit provisions in accordance with RCW 90.48.904.

Condition G23 Property Rights was renumbered from Condition G25. This general condition specifies that the permit does not convey property rights in accordance with 40 CFR 122.41(g).

Condition G24 Duty to Comply was renumbered from Condition G26. This general condition requires the Permittee to comply with all conditions of the permit in accordance with 40 CFR 122.41(a).

Condition G25 Penalties for Tampering was renumbered from Condition G27. This general condition describes the penalties associated with falsifying or tampering with monitoring devices or methods in accordance with 40 CFR 122.41(j)(5).

Condition G26 Reporting Anticipated Non-Compliance was renumbered from Condition G28. This general condition requires Permittees to report anticipated non-compliances in accordance with 40 CFR 122.41(l)(2).

Condition G27 Reporting Other Information was renumbered from Condition G29. This general condition requires Permittees to report any relevant information omitted from the permit application in accordance with 40 CFR 122.41(l)(8).

Condition G28 Duty to Mitigate was renumbered from Condition G30. This general condition requires permittees to take all reasonable steps to minimize discharges that have a reasonable likelihood of adversely affecting human health or the environment in accordance with 40 CFR 122.41(d).

6.14 Appendix A – NAICS codes, Ecology codes, SIC numbers, and Descriptions for Facilities Covered under this Permit

Ecology includes the information in Appendix A in table format, to make the information easier to read and reference. Ecology includes descriptions for the two Ecology codes.

The definition for concrete recycling helps to determine code classifications related to comeback concrete. Comeback concrete that is unhardened does not require a separate code and is an accessory use under 327320. Hardened comeback concrete that will be disposed of does not meet the concrete recycling definition for reusable concrete product and is an accessory use under 327320. Hardened comeback concrete that will be crushed and reused as a recyclable concrete product does fall under the definition for concrete recycling and the Ecology Code ECY002 should apply to those activities; this is true regardless of if the comeback concrete is only from the original ready-mix plant or if it is also coming from other sources.

Unhardened comeback concrete used to make Ecology blocks is also not considered concrete recycling and is an accessory use under 327320; however, if the permittee is also making blocks or other products with un-returned concrete they should consider also adding the appropriate NAICS code (327331 or 327390) for these activities.

Stockpiling of hardened structural concrete or hardened asphalt without the intention of producing a reusable product does not meet the definition of recycling or the intent of ECY001 and ECY002. Thus, ECY001 and ECY002 should not be interpreted as applying to solid waste disposal activities.

6.15 Appendix B – Definitions

Ecology lists the proposed revised terms below.

1. Clarifications and simplifications to improve the understanding of terms
 - Inactive Site – Ecology proposes modifying the definition of Inactive Site to reflect the new title for the form used to change the activity status of the site.
 - Nonoperating site – Ecology proposes modifying the definition clarify the difference between nonoperating and inactive.

7.0 References

Documents prepared after June 12, 2014 also identify information sources by the following 11 categories:

1. Peer review is overseen by an independent third party.
2. Review is by staff internal to Department of Ecology.
3. Review is by persons that are external to and selected by the Department of Ecology.

4. Documented open public review process that is not limited to invited organizations or individuals.
5. Federal and state statutes.
6. Court and hearings board decisions.
7. Federal and state administrative rules and regulations.
8. Policy and regulatory documents adopted by local governments.
9. Data from primary research, monitoring activities, or other sources, but that has not been incorporated as part of documents reviewed under other processes.
10. Records of best professional judgment of Department of Ecology employees or other individuals.
11. Sources of information that do not fit into one of the other categories listed.

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- 40 CFR 123: State Program Requirements. (n.d.). [7]
- 40 CFR 125.3: Technology-based Treatment Requirements in Permits. (n.d.). [7]
- 40 CFR 131.12: Antidegradation Policy and Impelemntation Methods. (2015, August 21). [7]
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40 CFR 436: Mineral Mining and Processing Point Source Category. (n.d.). [7]

40 CFR 443: EPA Effluent Limitations Guidelines For Existing Sources And Standards Of Performance And Pretreatment Standards For New Sources For The Paving And Roofing Materials (Tars And Asphalt) Point Source Category. (n.d.). [7]

Revised Code of Washington

Chapter 43.17.095: Option to Submit Document, Form, or Payment Electronically – Requirements. (n.d.). [7]

Chapter 90.56.280: Duty to Notify Coast Guard and Division of Emergency Management of Discharge. (n.d.). [7]

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Chapter 173-200: Water Quality Standards for Groundwater of the State of Washington. (1990, October 31). [5]

Chapter 173-201A: Water Quality Standards for Surface Waters of the State of Washington. (2011, May 9). [5]

Chapter 173-204: Sediment Management Standards. (2013, February 25). [5]

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Chapter 173-220: National Pollutant Discharge Elimination System Permit Program. (2002, February 15). [5]

Chapter 173-224: Wastewater Discharge Permit Fees. (2013, November 1). [5]

Chapter 173-226: Waste Discharge General Permit Program. (2002, February 15). [5]

Chapter 173-303: Dangerous Waste Regulations. (2014, December 18). [5]

Chapter 173-304: Minimum Functional Standards for Solid Waste Handling. (1988, October 4). [5]

Chapter 173-350: Solid Waste Handling Standards. (2013, March 25). [5]

Appendix A – Response to Comments

This Response to Comments addresses comments received on the formal draft of the Sand and Gravel General Permit and addresses changes made to the formal draft as a result of these comments. It is included as Appendix A to the Fact Sheet for the Sand and Gravel General Permit.

The public comment period for this permit began on October 27, 2020 and lasted until 11:59 p.m. of December 11, 2020. No oral testimony was given at the public hearings and Ecology received written comments from four entities during the public comment period. Ecology modified the Sand and Gravel General Permit based on comments received from the public. Changes made to the permit in response to a comment received are provided with the comment that initiated the change. The comments, Ecology's responses, and any revisions are included below.

Copies of all public comment letters are posted on Ecology's Sand and Gravel General Permit website: <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Sand-Gravel-General-Permit>.

Comments from Bruce Chattin, Washington Aggregates and Concrete Association:

Comment 1:

Page 4: “Electronic Signature Account Form” (ESAF) or an “Electronic Waiver Request” form. What is the anticipated alternative to this form or reporting mechanism and where is it found in the permit?

Response 1:

There is no alternative to this form. S10.A.4 of the permit requires permittees to use the Ecology Water Quality Permitting Portal for submitting DMRs unless they receive an Electronic Reporting Waiver. An ESAF is a requirement to be able to sign submittals within the Water Quality Permitting Portal and isn't directly a requirement of the permit. The ESAF will continue to be used for the purposes of setting up a signature account within the Water Quality Permitting Portal. Additional information can be found in the Water Quality Permitting Portal help pages for Electronic Signature Accounts at <https://secureaccess.wa.gov/ecy/wqwebportal/HelpPages/ESAHelp.aspx>. The permit was not modified based on this comment.

Comment 2:

Table 2 &3 S1 E3:

- Change in language from “run off” to “discharge” throughout the oil sheen column. What is the distinction between run off and discharge? Does “discharge” suggest a return to sampling any and all puddles that may be present vs taking a representative sample of puddles on the site?
- This has been a reoccurring discussion over a series of permit renewals and a representative sample is the standard in which the current permit and prior versions have agreed upon. We

would request we do not return to sampling of any and all puddles as a “discharge”. With regard to changes in the oil sheen column, is there any discussion Industry and agency should have regarding oil sheens? Are there concerns or instances that may have prompted these changes?

Response 2:

Tables 2 and 3 of the permit provide effluent limits and monitoring requirements for discharges of process water, mine dewatering water, and stormwater for discharges to surface and groundwaters. NPDES and State Waste Discharge permits, which is what the Sand and Gravel General Permit is, regulate the discharge of pollutants therefor the limits and monitoring requirements in Tables 2 and 3 apply specifically to discharges. The term runoff was removed because in this context it is vague. Additionally a runoff event doesn’t necessarily correspond to a discharge depending on site conditions. This change from “runoff” to “discharge” should have no functional change regarding representative sampling including the way representative sampling is applied in the permit or implemented in the field. Representative Sampling is defined in the permit as collecting an array of samples to accurately represent the nature of the discharge for parameters of concern. S4.F.2.c still requires Permittees to “conduct daily visual monitoring for oil sheen at all surface water and groundwater discharge points (or representative locations where water collects prior to discharge) when runoff occurs” as a part of the Permittee’s site inspection requirements. If industry would like to discuss this further the Washington Department of Ecology would be happy to have those discussions. The permit was not modified based on this comment.

Comment 3:

P. 16 S3-H:

“There must be no visible oil sheen at any points of discharge to groundwater”. Is a puddle formally considered a discharge to groundwater?

Response 3:

Locations of groundwater discharges are completely dependent on specific site conditions including flow routing, impoundment design, distance to aquifers, and many other factors. Discharge to groundwater locations must be determined on a site specific basis. Permittees should consult their permit managers with questions about points of discharge to groundwater on their site. The permit was not modified based on this comment.

Comment 4:

P 17 S3 J: Inactive sites:

Industry has discussed the inactive and change in status of inoperative sites with the agency. We are looking forward to helping draft a working flow chart to assist inspectors and industry on the suggested changes to inactive sites, operating periods, fees, monitoring and other changes. We suggest this flow chart be discussed and a pilot approach (if necessary) be considered so interpretation and application is consistent by the agency and industry.

Response 4:

We appreciate the input that we have gotten from industry on inactive sites and non-operating sites. We also are looking forward to working with industry on development of the flow chart and continuing to work with industry on any implementation changes. The permit was not modified based on this comment.

Comment 5:

P33 S10 B-1: Production Number Range and Operating Status Verification Reporting

“Annually, by January 30 non-portable Permittees that have a NAICS code of 324121, 327320, 327332, and/or 327390 must report annual concrete and asphalt production numbers in accordance with Chapter 173-224 WAC”

- Industry has continually objected to the effort to require formal production numbers for any purpose in the permit. Production numbers are considered proprietary information. If contained as a requirement for fees or reporting, in a public document this allows sharing of competitive information among competitors and may be a violation of anti-trust.
- We strongly request any reference to "production numbers" also contain “ranges” (“production number ranges”) for consistency throughout the document. Comments provided in the last permit renewal properly sums up our concerns and our strong objection to reporting of production numbers as a standalone number for any permittee.

Comments from Previous renewal in 2016:

“S10.A.2 now requires annual reporting of production numbers. There are no provisions in the permit protecting production data as confidential information. The production information is undeniably unique to us and is not readily ascertainable to our competitors because it is a violation of Federal Anti-Trust laws to exchange market share information. With competitors for obvious reasons. By not having provisions in the permit for holding production information confidential, Ecology becomes a conduit for the exchange of information that has the potential to be used for illegal purposes in violation of the Federal Anti-Trust laws. It is an integral part of our financial and commercial information. Disclosure of production information would cause substantial competitive harm to us if it were disclosed to or made available for disclosure to our competitors because it is our right to keep market information secret. Ecology needs to add language to the permit to adequately protect production data that is now being required annually.”

- See S10 B3 for a proper and recommended wording when referring to production numbers:
- Permittees must submit their production number ranges and non-operating status request electronically using Ecology’s Water Quality Permitting Portal, unless the Permittee applies for and Ecology approves an Electronic Reporting Waiver. Permittees that have received an Electronic Reporting Waiver from Ecology must submit their production number ranges.....
- If Table 7 is taken out of the permit what are the ranges that would now apply? We recommend these ranges remain in the permit as has been the standard. Please provide an explanation for the removal of Table 7

Response 5:

We agree that the term “ranges” should be used in the permit to clarify the information that is used for fee calculations. It is not Ecology’s intention to have permittees submit production numbers and not production number ranges. The ranges that were indicated in Table 7 of the permit are in Chapter 173-224 WAC. Chapter 173-224 WAC establishes the water quality permit fees and is the appropriate location for the production number ranges. The Sand and Gravel General Permit fee schedule which includes the production number ranges is located in Section 173-224-040 WAC. The reporting of the production number ranges historically has been done annually either through the Water Quality Permitting Portal or through a paper form that is submitted to the Water Quality Program Fees Unit. Ecology is not anticipating any functional changes to the existing reporting based on these edits. S10.B.1 of the permit has been updated as follows with the change highlighted in yellow:

“Annually, by January 30 non-portable Permittees that have a NAICS code of 324121, 327320, 327332, and/or 327390 must report annual concrete and asphalt production number ranges in accordance with Chapter 173-224 WAC for the previous calendar year.”

Comment 6:

P. 34 S10 B 3 Water Quality Fees Unit. via the paper form that Ecology provides for this purpose.

- Is this the alternative to the ESAF? Who is the WQF unit and what is their role and authorities?

Response 6:

This form is not an alternative to the Electronic Signature Account Form and is not a new form to the Sand and Gravel General Permit. The Water Quality Fees Unit is a unit in the Water Quality Program at the Washington Department of Ecology that collects permit fees to fund the operations of the Water Quality Wastewater and Stormwater Discharge Permit Programs. More information on the Water Quality Fees Unit can be found at <https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-quality-permits/Fees>. RCW 90.48.465 requires Ecology to collect fees from permit holders and resulted in the adoption of Chapter 173-224 WAC – Water Quality Permit Fees which contains the permit fee schedule. The permit was not modified based on this comment.

Comment 7:

P 36 S 11 C: Solid waste disposal / Recycled concrete and asphalt.

- We object to these materials being listed under the heading of “solid waste”. The legislature has passed legislation to promote and encourage the use of these materials as a valuable and reusable product. Industry and agency should continue to have on going and progressive discussion on increasing the use of recycled concrete and aggregate materials, point of compliance for run off and an improved understanding of pH.
- Ecology continues to regulate these important products as a waste to be managed versus a resource to be to be used.

Response 7:

S11 of the Sand and Gravel General Permit is the section on Solid Waste Disposal. S11.C is titled Recycle and Waste Material Other Than Concrete or Asphalt. This section of the permit does not apply to e recycled concrete or asphalt. The permit conditions the storage of recycled concrete in Special Condition S8.F. We agree that these materials are a valuable and reusable product. We plan to continue to have discussions with the industry concerning recycled concrete and asphalt materials as they relate to the Sand and Gravel General Permit and appreciate industry's input on the handling of these materials. The permit was not modified based on this comment.

Comment 8:**P 36 S12: Permit Application:**

- Requires a “complete and accurate” Notice of Intent (NOI).
- What is the definition of “complete and accurate” permit application and who makes that determination, and based on what criteria?

Response 8:

The permit NOI is reviewed by permit managers and permit administrators in the respective Ecology Regional Offices. An NOI is considered complete when all of the required information is provided and is considered accurate if it is free from errors. The permittee attests to the accuracy of the NOI when it is signed. If errors are found during the review then Ecology requests corrections to the NOI. The permit was not modified based on this comment.

Comment 9:**P 39 S12 E1:**

“A Department of Natural Resources (DNR) reclamation permit is considered “restored” when the DNR reclamation permit has been terminated, or DNR has determined that the reclamation minimum standards have been achieved....”

- In prior discussions, we have pointed out the distinction between restored and reclaimed. A DNR permit is a reclamation permit and “restoration” is not a condition. It is a correct term for when a reclamation permit issued by DNR is not in place (less than 3 acres) and restoration of a site is subject to the approval of local jurisdiction is received.
- Recommend language change to DNR reclamation permit is considered restored reclaimed.

Response 9:

The Sand and Gravel General Permit in S12.E has a requirement that for a permit to be terminated “...the Permittee must complete restoration of the site”. S12.E.1 is clarifying that for sites that have a DNR reclamation permit that Ecology will consider the site “restored” and in compliance with the requirement in S12.E if the DNR reclamation permit has been terminated, or DNR has determined that the reclamation minimum standards have been met, or the site has been reclaimed to the satisfaction of the Ecology permit manager or local jurisdiction. We recognize

that restoration is not a condition of the DNR permit but Ecology will consider the site “restored” to satisfy the Sand and Gravel General Permit requirement if the reclamation requirements of the DNR permit are met. The permit was not modified based on this comment.

Comment 10:

S12 E for terminating coverage and S12 F for permit transfers;

- Delays occur when determinations are made at the 30 day or stated timeline and terminations and transfers do not efficiently take place or are delayed sometimes indefinitely. The CSWP has language that allows for the termination or transfer when no comments regarding the request are received.
- We recommend making the language and intents of the 2 related permits the same for consistency between the 2 permits.

Response 10:

S12.F of the Sand and Gravel General Permit currently allows for automatic transfers to occur as long as the Permittee notifies Ecology 30 days in advance of the transfer date. There is no language in either the Construction Stormwater General Permit or the Sand and Gravel General Permit regarding receiving comments on transfers. The Sand and Gravel General Permit has additional requirements for terminations that the site must be restored to the satisfaction of the permit manager or other similar requirements outlined in S12.E. These requirements often mean that the permit manager will perform a termination inspection to determine if the site has been appropriately restored. Due to these additional requirements that can indicate the need for a termination inspection, an automatic termination at the 31st day similar to the CSWGP is not appropriate. The permit was not modified based on this comment.

Comment 11:

P 44. Right of Entry:

- Please note that all mine sites are under the jurisdiction of the Federal Mine Safety and Health Administration; MSHA. ALL persons entering a mine site MUST report to the mine office and receive site specific safety training before entering the mine site. This includes contractors, customers, and agency inspectors. Please add any necessary language to clarify that this is understood by the agency and is a condition on the right of entry that will be implemented.
- *A mine operator has the responsibility for the safety for all persons on the mine site and we appreciate your consideration of this federal requirement.*

Response 11:

Ecology recognizes the MSHA requirements. A clarification to general requirement G5 – Right of Entry is made in the Sand and Gravel General Permit Fact Sheet as follows with the changes highlighted in yellow:

Condition G5 Right of Inspection and Entry was renumbered from Condition G6. This general condition requires the Permittee to allow Ecology to access the facility and conduct inspections of the facility and records related to the permit in accordance with 40 CFR 122.41(i), RCW 90.48.090, and WAC 173-220-150(1)(e). For mine sites under the jurisdiction of the Federal Mine Safety and Health Administrations, inspections and entry must comply with MSHA safety requirements.

Comments from Drew Cratsenberg, Gary Merlino Construction Company

Comment 12:

SIO.B. Production Operation Status Verification Reporting: Section B.l. now requires annual reporting of concrete and asphalt production numbers for select NAICS codes. The draft also removes the ability to report these numbers within a range. GMCC, like many of its competitors, considers its production numbers to be confidential business information. These figures are unique to us and cannot be shared openly between competitors due to Federal AntiTrust Laws. Currently, Ecology does not have any proposed provisions within the draft permit to protect the requested figures as confidential. As such, Ecology becomes a conduit for the exchange of information that has the potential to be used for illegal purposes in violation of the Federal Anti-Trust laws. Disclosure of production information would cause substantial competitive harm to companies within the sand and gravel industry.

To avoid violating Federal Anti-Trust laws, the best option is to keep the current production ranges from the 2015 Sand and Gravel Permit. The production ranges used in the previous permit protected confidential information for all companies and allows Ecology to process annual fees in accordance with the amount of production for each site.

Response 12:

Please see Response 5 above.

Comment 13:

Adding Appendices For Forms Regarding Change Request, Activity Status Change, Production Report, and Other Reporting Requirements: Forms that are submitted to Ecology for changes in permit coverage, activity status changes, production reporting, and other requirements should be included in an appendix with the permit. Having forms to reference within the permit will help

permit holders understand what forms go with each permit requirement or notification requirements.

Response 13:

We think having all of the forms required for the permit together in one location is a great idea and will help permittees understand which forms should be submitted when. Including the forms as an appendix to the permit would make them a regulatory tool as opposed to an administrative tool. Ecology is planning on compiling a “forms packet” that includes all of the Sand and Gravel General Permit forms and will be available for download on the Ecology Sand and Gravel General Permit website based on this comment.

Comments from Annie Ayre, Glacier Northwest, Calportland

Comment 14:

S.10.B.1 CalPortland proposes that Ecology keep the existing permit language "Annually, by January 30 non-portable Permittees that have a NAICS code of 324121, 327320, 327332, and/or 327390 must report for the previous year which range below their production of asphalt and/or concrete fell within." The proposed language "annual concrete and asphalt production numbers" compels permittees to submit proprietary information.

Response 14:

Please see Response 5 above.

Comment 15:

Notice of Intent Non-Portable Operations under the Sand and gravel General Permit Form, Section VI – Other Permits/Registration – This request is vague. CalPortland requests that Ecology provide an explanation for how existing permits and registrations are evaluated in the context of considering Notices of Intent for Sand and Gravel General Permit coverage. If knowledge of a specific permit or registration is necessary CalPortland encourages Ecology to provide clarity within section VI of the Notice of Intent form.

Response 15:

Knowledge of additional permits that may cover the site is helpful to Ecology permit managers for a variety of reasons. This information helps the permit manager have a more comprehensive and holistic understanding of the activities at the site and allows the permit manager to respond to questions from the public or provide better technical assistance to the permittee. Often permit managers receive complaints or concerns from stakeholders or local citizens concerning other permitted activities at Sand and Gravel facilities and knowing what other permits are available can help Ecology permit managers direct these to the appropriate entity. Knowledge that a

facility has a solid waste handling permit for example, lets the permit manager know to expect to see solid waste handling activities at a site, that there is a permit in place, and that there is another entity responsible for inspecting the site for that activity. In the case of DNR surface mine reclamation permits, it lets the permit manager or permit administrator know that there are other avenues available for termination besides performing a termination inspection. The other permits that a facility may have is not used to evaluate a Notice of Intent for coverage, but rather the information is beneficial to have during the administration of the permit. The draft NOI was not modified based on this comment.

Comments from US EPA Region 10

Comment 16:

1. The Draft Sand and Gravel General Permit includes the following paragraph in the current General Permit Section S.2. Please consider also adding the following 2 sentences at the beginning of Section S.3H: "The Permittee is authorized to discharge process water, mine dewatering water, and stormwater to groundwater at the permitted location subject to the numeric effluent limitations in Table 2 and Table 3. If the Permittee combines discharges from two or more industrial activities, the most stringent effluent limit for each parameter applies."

Response 16:

The suggested language was present in the 2018 Sand and Gravel General Permit and was inadvertently removed. S3.H in the permit has been modified as follows with the changes highlighted in yellow:

H. Discharges to Groundwater — Additional Effluent Limitations

The permittee is authorized to discharge process water, mine dewatering water, and stormwater to groundwater at the permitted location subject to the numeric effluent limitations in S2. If the Permittee combines discharges from two or more industrial activities, the most stringent effluent limit for each parameter applies.

Comment 17:

2. Section S.3G and other applicable sections could also benefit for clarification purposes that the most stringent effluent limit for each parameter applies when discharges are from two or more industrial activities. Please consider adding: "The Permittee is authorized to discharge process water, mine dewatering water, and stormwater to groundwater at the permitted location subject to the numeric effluent limitations in Table 2 and Table 3. If the Permittee combines discharges from two or more industrial activities, the most stringent effluent limit for each parameter applies."

Response 17:

Ecology agrees that for consistency and clarity the proposed language should be added to S3.G. The permit has been modified as follows with the changes highlighted in yellow:

G. Discharges to Surface Water — Additional Effluent Limits

The permittee is authorized to discharge process water, mine dewatering water, and stormwater to surface water at the permitted location subject to the numeric effluent limitations in S2. If the Permittee combines discharges from two or more industrial activities, the most stringent effluent limit for each parameter applies.

Comment 18:

3. The General Conditions section, Section G, does not include a section for Proper Operation and Maintenance. This should be added to the permit.

Response 18:

S3.A and S3.E include requirements for operation and maintenance of facilities and systems of collection and treatment for pollution control. G3 – Proper Operation and Maintenance was removed from the permit due to redundancies for operation and maintenance requirements in the permit. The permit was not modified based on this comment.